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TO	Partner, Shareholder and Trustee Sub-Committee
DATE	Thursday 26 January 2023
EXECUTIVE MEMBER	Portfolio Holder for Investment and Companies

KEY DECISION REQUIRED	N
WARDS AFFECTED	(All Wards);

SUBJECT	Companies Performance Update – Winter 2022
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Recommendations
To note the Companies Performance Update – Winter 2022, as set out in the report. The Overview & Scrutiny Committee received this report at its meeting on 8 December 2022 and their observations, for consideration by the Partner, Shareholder and Trustee Sub-Committee are set out in the Exempt report in the Part 2 section of this agenda.
Reasons For Recommendations
To consider the performance of companies owned or part-owned by the Council as of Winter 2022.
Executive Summary
This report provides an overview of the performance of the companies currently owned, or part-owned, by the Council. The operational companies currently consist of Greensand Holdings Limited, Horley Business Park Development LLP and Pathway for Care Limited. RBBC Limited is inactive and the Council has ceased to be involved in the management of Camelia Close (Tadworth) Residents Management Company Limited.

The Council continues to review the future strategy for Greensand Holdings Limited with its Directors following recent changes to local government guidance on commercial investments, as set out in the exempt part 2 report.

Horley Business Park Development LLP is not currently considered to be performing in line with expectations.

The Council continues to attempt to obtain management information from Pathway for Care Limited in order to review its performance.

The Overview & Scrutiny Committee considered this report at its meeting on 8 December 2022 and its observations are set out in the Exempt report in the Part 2 section of this agenda with additional commercially sensitive supporting information.

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

1. 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 the pandemic has impacted income receipts, it remains essential for the Council to take action to ensure financial stability 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.
2. Following a Commercial Governance Review in 2018, company activities have been overseen by the Commercial Ventures Executive Sub-Committee (now Partner, Shareholder and Trustee Sub-Committee).
3. These activities take place within financial limits set out as part of the Council's approved revenue budget and capital programme.
4. The Council's holdings in companies represent one element of this commercial and investment activity, governed by the established commercial framework, along with relevant company regulations.
5. To support good governance of the Council's companies, the Overview and Scrutiny Committee and the Partner, Shareholder & Trustee Sub-Committee receive regular updates on the performance of these companies.

6. The last update was considered in June 2022 by Overview and Scrutiny and July 2022 by Commercial Ventures Executive Sub-Committee (now Partner, Shareholder & Trustee Sub-Committee). This report sets out the current position.

Key Information

7. The Council currently owns or part-owns three operational companies. These are Greensand Holdings Limited, Horley Business Park Development LLP and Pathway for Care Limited. RBBC Limited is inactive. The Council ceased involvement in the management of Camelia Close (Tadworth) Residents Management Company Limited on 1 December 2022.
8. The Council is currently reviewing the future strategy for Greensand Holdings Limited with its Directors following recent changes to local government guidance on commercial investments.
9. Horley Business Park Development LLP is not currently considered to be performing in line with the Council objectives.
10. Management Accounts information continues to be sought from Pathway for Care Limited and the decision on the adequacy of its performance is undetermined, pending receipt of that information.
11. The Council no longer owns the freehold of the completed development at Camelia Close (Pitwood Park) which was transferred to the Camelia Close (Tadworth) Residents Management Company Limited on 16 August 2022 upon the sale of the final home. A representative from the Housing Trust that has an interest in a number of properties at the site was appointed as a Director and the Council officer Director resigned on 1 December 2022.
12. More detail of the current status and performance of the Council's interest in the active companies is set out below.

Greensand Holdings Limited

13. 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.
14. The company was initially funded through a loan from the Council. It generates income from one of its property holdings.
15. At 30 September 2022, the company had received £13.258m in loan funding from the Council comprising:
- £2.270m in 2016/17 for the purchase of office premises; and
 - £10.988m in 2019/20 for the purchase of a plot of land for development.
16. The office premises provides a rental income however maintenance and operating costs are a concern and are in the process of being addressed.
17. The development land provides a negligible income stream; £2.373m loan interest has been accrued at 30 September 2022. The loan and accrued interest are impaired in the Council's accounts to reflect the risk of credit loss.

18. The current Directors of the company are Mr D Beck and Councillor R Michalowski.
19. The performance of the investment in the development site will be dependent on the Council's future decisions regarding the proposed development.
20. The Directors' Report and Audited Financial Statements for the year ended 31 December 2021 for Greensand Holdings Limited are attached at Annex 1.
21. Additional details are available in the exempt report set out in the Part 2 section of this agenda.

Horley Business Park Development LLP

22. Horley Business Park Development LLP (the Partnership) 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 Partnership 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.
23. The Partnership is funded through loans from the Council and its partners. It does not currently generate a profit.
24. As of 30 September 2022, the Partnership had received £0.608m in loan funding from the Council for set up and working capital expenses and £0.416m interest has accrued. This sum is impaired in the Council's accounts to reflect the risk of credit loss.
25. As reported in the Spring 2022 report, the Council is currently working to resolve a number of matters regarding its relationship with the partners to the LLP which may affect future engagement with the joint venture. In order to avoid prejudicing current discussions it is not possible to publish additional information, but an update will be provided once it is possible to do so.
26. Following the felling of a number of trees without the Council's knowledge on land owned by Millhill, the Council is aware of an investigation by the Forestry Commission, the outcome of this investigation will confirm their intended route of enforcement action against Millhill.
27. The draft Horley Business Park Development LLP's Annual Report and Financial Statements for the year ended 31 December 2021 were received by the Commercial Ventures Executive Sub-Committee on 17 November 2022 and post the Overview & Scrutiny Committee meeting on 8 December 2022, were approved by all partners of the LLP and lodged with Companies House. The 2021 Accounts are attached at Annex 2.
28. Additional details are available in the exempt report set out in the Part 2 section of this agenda.

Pathway for Care Limited

30. Pathway for Care Limited provides supporting living facilities and support for their residents at a site in the borough. Its creation was authorised by the Executive on 14 July 2016. The company equity share structure was subsequently revised in April 2018.

31. 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.
32. The Council currently holds £1.1m redeemable preference shares in the company, redeemable in April 2023, which were converted from a £1.1m loan when the equity restructuring took place. 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.
33. The Council is entitled 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. The company has not declared a dividend.
34. The current Directors of the company are Mr Ahmed Ibrahim and Councillor V. Lewanski, the Council appointed Director. Messrs P Green and W Richards were previously directors of the company but resigned as of 6 October 2021. They remain directors of the majority shareholder, Transforming Healthcare Group Limited. Mr O Vrublevskiy resigned as of 21 July 2022. Post the 8 December 2022 Overview & Scrutiny Committee, Mr J Ford resigned on 29 December 2022.
35. The Council has requested up to date management accounts information for the company. The most recent information was dated January 2021. A judgement on the current performance of the company is subject to this information being received.
36. Additional details are available in the exempt report set out in the Part 2 section of this agenda.

RBBC Limited

37. RBBC Limited was incorporated on 30 September 2020 following the dissolution of a previous Council company, also named RBBC Limited. It was created for the purpose of preserving the name in case the Council should want to use the company name in the future. The directors, appointed for incorporation purposes, are the Director & Head of Paid Service and the Director of Place. The company is inactive and has not undertaken any activity in the current year.

Legal Implications

38. There are no direct legal implications arising from this report.
39. Where 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

40. There are no direct financial implications arising from this report. The Council's annual statement of accounts incorporates the financial position of its companies as part of its group financial statements.
41. Where decisions are made which impact 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

42. 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.
43. 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.
44. 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.
45. Where 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.
46. The Partner, Shareholder & Trustee 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

47. There are no direct communication implications as a result of this report. However, as identified in the Commercial Governance Framework, the Partner, Shareholder and Trustee 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

48. All commercial ventures and investment activities contain an element of risk, and the Partner, Shareholder and Trustee 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.
49. In monitoring the performance of companies owned or part-owned by the Council, the Partner, Shareholder and Trustee 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.

Environmental Considerations

- 50. There are no direct environmental implications arising from this report.
- 51. Where decisions are made which effect the Council's companies, the environmental implications of these decisions will be considered as part of the decision making process in each case.

Policy Framework

- 52. The recommendations of this report are consistent with the Council's Policy Framework.
- 53. All actions undertaken by the Council in respect of commercial activity (including company activity) will be undertaken for the purpose of contributing to the achievement of the 'Funding our Services' objective within the Council's Corporate Plan and supporting policy framework, unless otherwise specified by statute.