

<b>Signed off by</b>	Strategic Head of Legal & Governance
<b>Author</b>	Joyce Hamilton, Head of Legal & Governance
<b>Telephone</b>	Tel: 01737 276749
<b>Email</b>	joyce.hamilton@reigate-banstead.gov.uk
<b>To</b>	Partner, Shareholder and Trustee Executive Sub-Committee
<b>Date</b>	Thursday, 23 March 2023
<b>Executive Member</b>	Portfolio Holder for Investment and Companies

<b>Key Decision Required</b>	Y
<b>Wards Affected</b>	(All Wards);

<b>Subject</b>	Greensand Holdings Limited - Funding Requirement
----------------	--

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>
Details are set out in the Exempt report in the Part 2 section of this agenda.

<b>Reasons for Recommendations</b>
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.
<b>Partner, Shareholder, Trustee Executive Sub-Committee has authority to approve the above recommendations.</b>

<b>Statutory Powers</b>
<ol style="list-style-type: none"> <li>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.</li> <li>2. Companies and the rights of shareholders are governed by the Companies Act 2006.</li> </ol>
<b>Background</b>
<ol style="list-style-type: none"> <li>3. The relevant background is set out in the exempt report in the Part 2 section of this agenda.</li> </ol>
<b>Options</b>
<ol style="list-style-type: none"> <li>4. The options available to the Executive are set out below: <div> <div>Option 1:</div> <div> <p>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.</p> <p>This is the recommended option as it will support the Council’s objectives, for the company.</p> </div> </div> <div> <div>Option 2:</div> <div> <p>To not authorise the injection of equity funds into Greensand Holdings Limited.</p> <p>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.</p> </div> </div> </li> </ol>
<b>Legal Implications</b>
<ol style="list-style-type: none"> <li>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</li> </ol>

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.

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