



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

SIGNED OFF BY	Managing Director
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TO	Overview and Scrutiny Committee Partner, Shareholder and Trustee Executive Sub-Committee
DATE	Overview and Scrutiny Committee: 7 December 2023 Partner, Shareholder and Trustee Executive Sub-Committee: 14 December 2023

KEY DECISION REQUIRED	N
WARDS AFFECTED	(All Wards);

SUBJECT	Companies Performance Update - Winter 2023
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Recommendations
Overview and Scrutiny Committee (i) To note the Companies Performance Update, as set out in the report, and make any observations for consideration by the Partner, Shareholder and Trustee Executive Sub-Committee.
Partner, Shareholder and Trustee Executive Sub-Committee (ii) To note the Companies Performance Update, as set out in the report, and to consider any observations from the Overview and Scrutiny Committee.
Reasons For Recommendations
To consider the performance of companies owned or part-owned by the Council.

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.

The Council also owns the inactive company RBBC Limited.

The Council continues to review the future strategy for Greensand Holdings Limited with its directors with the aim of ensuring that the company's affairs are properly managed and that preparations are made for the company to be dissolved in an orderly manner.

Horley Business Park Development LLP is due to be dissolved by way of a Members Voluntary Liquidation (MVL). A 'Step Plan' to resolve the financial affairs of the LLP, prior to entering into the MVL process, is currently being implemented with (as of 27 November 2023) 9 out of 15 Steps completed.

The Council is currently engaged in commercially sensitive legal dialogue with the other shareholder in Pathway For Care Ltd (Transforming Healthcare Group). It is likely that the company will be forced into administration (by HMRC) unless a negotiated settlement can be reached.

Additional commercially sensitive supporting information is detailed in the exempt report set out in the Part 2 section of this agenda.

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

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 have faced significant 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 take action to ensure future financial stability if it is to continue to deliver and maintain the high level of services it currently provides and has planned through the Corporate Plan 2020-2025.
4. Company activities are overseen by the Partner, Shareholder and Trustee

Executive Sub-Committee. These activities take place within financial limits set out in the approved revenue budget and capital programme.

5. 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.
6. To support good governance of the Council's companies, the Overview and Scrutiny Committee and the Partner, Shareholder and Trustee Executive Sub-Committee receive regular updates on the performance of these companies.
7. The last update was considered by the [Overview and Scrutiny Committee](#) in June 2023 and the [Partner, Shareholder and Trustee Executive Sub-Committee](#) in July 2023.

Key Information

8. The Council currently owns or part-owns three operational companies. These are Greensand Holdings Limited, Horley Business Park Development LLP, Pathway for Care Limited. The Council also owns an inactive company, RBBC Limited.
9. The Council continues to review the future strategy for Greensand Holdings Limited with its directors with the aim of ensuring that the company's affairs are properly managed and that preparations are made for the company to be dissolved in an orderly manner.
10. Horley Business Park Development LLP is due to be dissolved by way of a Members Voluntary Liquidation. A Settlement Deed resolving all outstanding disputes between the LLP's members has been completed. This Deed incorporates an agreed 'Step Plan' which is currently being implemented with (as of 27 November 2023) 9 out of 15 Steps completed and will facilitate the closing down of the LLP.
11. The Council is currently engaged in commercially sensitive legal dialogue with the other shareholder in Pathway For Care Ltd (Transforming Healthcare Group). It is likely that the company will be forced into administration (by HMRC) unless a negotiated settlement can be reached.
12. Further details are 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. 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 an income from one of its property holdings. Current Directors are Mr. D. Beck and Councillor R. Michalowski.
15. At 31 March 2023, 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.

On 23 March 2023 the Partner, Shareholder and Trustee Committee approved

equity funding of £1.300 million to allow it to continue trading and carry out essential works on one of its properties.

16. The office building provides a rental income. A programme of remedial works is taking place to secure the 'rentability' of the property and to improve its EPC environmental rating. The current plan is for this asset to be transferred into direct Council ownership at a future date.
17. The development land provides a negligible income stream; £2.373m loan interest has been accrued as of 30 September 2022. The loan and accrued interest are impaired in the Council's accounts to reflect the risk of credit loss.
18. As a result of the signing of the of the Settlement Deed for Horley Business Park Development LLP – this asset is now free of any obligation to the LLP and the current plan being to transfer it back into direct Council ownership.
19. The Directors' Report and Audited Financial Statements for the year ended 31 December 2022 for Greensand Holdings Limited are provided at Annex 1.
20. 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

21. 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 the joint venture with Millhill Properties (Horley) Limited and Berwick Hill Properties Limited was established in 2016.
22. The LLP has been funded through loans from the Council and its partners.
23. As of 31 March 2023, the company 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.
24. The Council has resolved all matters regarding its relationship with the partners to the LLP and this process has resulted in the signing of a Settlement Deed that releases all partners from their obligations to the LLP. This Deed incorporates an agreed 'Step Plan' which will facilitate the closing down of the LLP.
25. The Step Plan is currently being implemented with Steps 1 – 9 completed. On completion of Step 15, an Insolvency Practitioner (Moore, Kingston, Smith) will be appointed and the LLP will enter into the process to secure a Members Voluntary Liquidation (MVL). A copy of the Step Plan attached at the Exempt Part 2 section of this agenda at Annex 2.
26. Additional details are available in the exempt report set out in the Part 2 section of this agenda.

Pathway for Care Limited

27. Pathway for Care Limited provides supporting living facilities and support for residents at a site in the borough. Its creation was authorised by the Executive on 14 July 2016. The company share equity structure was subsequently revised in April 2018, when Executive approved the conversion of debt funding to Preference Shares and of its shares into 'B' class equity.

28. The Council is, therefore, 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.
29. The Council currently holds redeemable preference shares with a value of £1.100m in the company. The redemption date of 5 April 2023 has not been honoured due to the company holding insufficient funds.
30. The current Directors of the company are Mr. A. Ibrahim and Councillor V. Lewanski, the Council appointed Director. Messrs. P. Green and W. Richards, who were directors of the company until October 2021, remain directors of the majority shareholder, Transforming Healthcare Group Limited.
31. The Council has received audited accounts for the year to 31 December 2022, but these do not have a valid audit opinion, do not include a 'going concern' statement and show that the company is technically insolvent.
32. Additional details are available in the exempt report set out in the Part 2 section of this agenda.

RBBC Limited

33. 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 Managing Director & Head of Paid Service, and the Director of Place. The company is inactive and has not undertaken any activity in the current year. Options for the future of the company, including closure, are going to be developed for consideration by the Sub-Committee.

Options for the Partner, Shareholder and Trustee Executive Sub-Committee

34. **Option 1:** To note the Winter 2023 Companies Performance Update, and the observations of the Overview and Scrutiny Committee.
This is the recommended option as it will support the effective consideration of the performance of companies owned, or part-owned, by the Council.
35. **Option 2:** To not note the Winter 2023 Companies Performance Update, and not consider the observations of the Overview and Scrutiny Committee.
This is not recommended as it will not support the effective consideration of the performance of companies owned, or part-owned, by the Council.

Legal Implications

36. There are no direct legal implications arising from this report. 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

37. 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.

38. 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

39. There are no direct equalities implications arising from this report, however an awareness of the Council's obligations with respect to these duties should form part of the consideration of this report.
40. 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.
41. The Partner, Shareholder and Trustee 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

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

43. All commercial ventures and investment activities contain an element of risk, and the Partner, Shareholder and Trustee Executive Sub-Committee considers these as part of when making decisions relating to companies owned or part-owned by the Council.
44. In monitoring the performance of companies owned or part-owned by the Council, the Sub-Committee has regard to the fiduciary duty the Council owes to 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 Sustainability Considerations

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

46. The recommendations of this report are consistent with the Council's Policy Framework.

47. 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.