

Cherwell District Council

Executive

5 July 2021

Graven Hill Village Development Company (Dev Co) – Creation of Additional Companies

Report of Shareholder Representative

This report is public.

Purpose of report

To consider a request from Graven Hill Village Development Company (Dev Co) for the creation of an additional subsidiary company that is required to facilitate the leases for the commercial units as required as part of the delivery of Graven Hill.

1.0 Recommendations

The meeting is recommended:

- 1.1 To approve the creation by Dev Co of a special purpose vehicle (SPV) as a company limited by shares and that Dev Co be requested to prepare governance documents for final approval by the Shareholder Representative, in consultation with the Chairman of the Shareholder Board before registration and director nominations occur.
- 1.2 That the new company be included, along with Dev Co's existing subsidiary companies, within the shareholder agreement between the council (1) Graven Hill Village Holdings Limited (2) and Dev Co (3) entered 30 September 2019.

2.0 Introduction

- 2.1 The Shareholder Representative will present the report for consideration. The request from Dev Co to set-up a subsidiary company stems from the need to lease out the commercial units effectively and legally and in order to facilitate this a subsidiary company will need to be set-up.

3.0 Report Details

- 3.1 A necessary consequence of the development process for the Graven Hill site is the requirement to set up subsidiary companies to carry out specific roles. The actual requirement for additional subsidiary companies will be determined over time as the process of development continues and to affect the most efficient methods of

delivery. This was envisaged during the initial establishment of the Graven Hill entities.

- 3.2 Dev Co is the landlord for the commercial / retail units beneath the apartment blocks situated at Block E on the site.
- 3.3 Dev Co intend that these commercial / retail units be disposed of to a Graven Hill group company, being the structure offering the most tax efficient benefits, and because Dev Co cannot grant a lease to themselves, Dev Co have taken legal advice on the most appropriate method to facilitate the leases. The advice is to set up a special purpose vehicle in the form of a company limited by shares to be the tenant for the commercial head-leases (a head lease is a lease to an entity that will subsequently grant leases to sub-lessees who will be tenants in possession).
- 3.4 The commercial head-leases could then be assigned by the SPV at a premium to buyers or the SPV can underlet the commercial/ retail units at a rack rent prior to assigning the head-leases.
- 3.5 Directors appointed to the new company will need to be nominated to enable incorporation, and the process will follow the previous subsidiary pattern of being two existing Dev Co directors. The two directors appointed to the existing subsidiaries are Ian Corkin (CDC Member) and Adrian Unitt (Dev Co Operations Director).
- 3.6 Dev Co has already set-up three subsidiary companies for the specific property management of each residential area and apartment block as approved by the Shareholder Committee in December 2016:
 - Graven Hill Village Management Company Limited
 - Graven Hill Village Management Company Block A Limited and
 - Graven Hill Village Management Company Block E Limited.

These companies are all limited by guarantee as it is much easier to transfer membership when, for example, an apartment changes hands as there are no share certificates involved.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The proposals in this report are designed to ensure that Dev Co has in place an effective governance structure to enable it to meet its aims and delivery objectives and in so doing safeguard the councils' investment and return on investment.

5.0 Consultation

- 5.1 The recommendations in this report have been subject to discussion between the Shareholder Representatives, CDC Finance Representatives and Dev Co's Managing Director and Finance Director.

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

None Applicable

7.0 Implications

Financial and Resource Implications

- 7.1 There are no direct financial implications arising from this report at this time. Graven Hill have confirmed that funding required to obtain legal and technical advice, register and operate the companies is contained within existing budgets and the Graven Hill loan.

Comments checked by:

Michael Furness, Assistant Director Finance. Telephone:01295 221845, Email: Michael.furness@cherwell-dc.gov.uk

Legal Implications

- 7.2 The recommendations in this report are intended to address Dev Co's obligation under its shareholder agreement with the council to obtain the council's consent to the formation of subsidiary companies, with appropriate delegation to Shareholder Representative to approve final governance documents for the new company when these are available from Dev Co.

It is noted that Dev Co have procured their own legal advice in relation to the most appropriate vehicle for managing the commercial/retail unit leases.

Comments checked by:

Richard Hawtin, Team leader – Non-contentious, Telephone: 01295 221695, Email: richard.hawtin@cherwell-dc.gov.uk

Risk Implications

- 7.3 The proposals set out in this report mitigate risk to the council in ensuring that Graven Hill has the correct governance in place and is able to safeguard the council's investment and make a return on that investment.

Comments checked by:

Louise Tustian, Head of Insight and Corporate Programmes, Telephone: 01295 221786, Email: Louise.Tustian@cherwell-dc.gov.uk

8.0 Decision Information

Key Decision

Financial Threshold Met: No

Community Impact Threshold Met: No

Wards Affected

All

Links to Corporate Plan and Policy Framework

Not Applicable

Lead Councillor

Not Applicable

Document Information

Appendix number and title

- None

Background papers

None

Report Author and contact details

Steve Jorden, Shareholder Representative. 01295 221526, steve.jorden@cherwell-dc.gov.uk