



<u>Committee and Date</u>	<u>Item</u>
Housing Supervisory Board 5 th November 2020	
	<u>Public</u>

HOUSING SUPERVISORY BOARD TERMS OF REFERENCE REVIEW AND GOVERNANCE

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1. Summary

- 1.1 It has been 14 months since the Housing Supervisory Board agreed the Board's Terms of Reference in Appendix A. This presents an opportunity to review and ensure they remain fit for purpose.

2. Recommendation

- 2.1 That the Housing Supervisory Board receives a report to its January 2021 meeting reviewing the governance arrangements in place for the Council as Shareholder of Cornovii Developments Limited, and the Terms of Reference of this meeting, attached in Appendix A.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1 The original legal advice was provided by international law firm Trowers & Hamlins.
- 3.2 The Terms of Reference were agreed on 5th September 2019. With the company actively progressing its first three developments, this presents a timely opportunity to review the Terms of Reference to ensure they remain fit for purpose.

4. Financial Implications

4.1 N/A.

5. Climate Change Appraisal

5.1 N/A.

6. Background

6.1 Cornovii Developments Limited, is Shropshire Council's wholly owned Local Housing Company. Established on 6th July 2019, it is currently progressing the development of its first 3 sites and a 5 Year Development Programme of 950 plus units, with the identification of land / sites to acquire.

6.2 Governance arrangements include this sub-committee, the 'Housing Supervisory Board'. Shropshire Council has delegated its functions as Shareholder of the company to the Housing Supervisory Board in order to 'provide oversight of the Company's actions and performance on behalf of the Council as sole shareholder'.

6.3 The Terms of Reference sets out the Housing Supervisory Board's role and responsibilities as the representative body of the company Shareholder.

6.4 A Shareholder Agreement between the Council and the Company regulates the relationship between the Council as Shareholder and the Company. This agreement includes a list of those decisions which, whether by virtue of the Companies Act 2006 or arrangements between the Council and the Company for good governance, are decisions that require the approval and consent of the Company's Shareholder, as well as the Company itself.

7. Additional Information

7.1 None.

Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

None

Cabinet Member (Portfolio Holder)

Cllr. Robert Macey

Local Member

Appendix

Appendix A – Housing Supervisory Board Terms of Reference

Appendix A

Shropshire Council

Housing Supervisory Board – Terms of Reference

1 Introduction

- 1.1 Cornovii Developments Limited (the **Company**) is a company limited by shares which is wholly owned by Shropshire Council (the **Council**).
- 1.2 The Company has been established to undertake residential development activity in the Council's administrative area to address unmet housing need and generate a financial return for the Council. It is intended that the Company will undertake development of residential property on land acquired from the Council or on the open market for both sale and rent, and undertake related property development activities.
- 1.3 The Council has reserved certain functions to itself, as shareholder, in the articles of association (the **Articles**) and the shareholder agreement in place between the Council and the Company (the **Shareholder Agreement**). The purpose of these terms of reference, which sit alongside the Articles and the Shareholder Agreement, is to set out the shareholder functions which are delegated by the Council to the Housing Supervisory Board and the terms on which it will operate.

2 Membership

- 2.1 Members of the Housing Supervisory Board shall be appointed by the Council in accordance with the Council Procedure Rules. The Housing Supervisory Board will be politically balanced and will consist of up to nine elected members of the Council.
- 2.2 Members of the Housing Supervisory Board shall cease to be a member of the Housing Supervisory Board at the next Annual Meeting of the Council or immediately on cessation of being an elected member, unless they are reappointed by the Council.
- 2.3 The Chair of the Housing Supervisory Board shall be elected by a simple majority of the members of the Housing Supervisory Board.

3 **Meetings**

- 3.1 Meetings of the Housing Supervisory Board shall be held at least quarterly, and as frequently as is necessary for it to exercise its delegated functions.
- 3.2 The quorum for Housing Supervisory Board meetings shall be three.
- 3.3 Decisions at meetings shall be made by a majority vote. The Chair of the Housing Supervisory Board shall have a casting vote.
- 3.4 The Housing Supervisory Board may invite any person (including Council officers, third party advisors), to attend meetings of the Housing Supervisory Board in an advisory capacity, as they feel appropriate.

4 **Minutes and reporting**

- 4.1 Draft minutes of meetings shall be circulated to the Chair of the Housing Supervisory Board for approval within 10 working days of the meeting.
- 4.2 Minutes of meetings will be presented to the next Housing Supervisory Board meeting and will also be made available to the Council.
- 4.3 There will be reporting every six months to the Council on the activities of the Housing Supervisory Board and operation of the Company, in accordance with the responsibilities set out in section 5 below.

5 **Responsibilities**

- 5.1 The Housing Supervisory Board shall be responsible for:
 - the giving of consent for the Shareholder Consent Matters set out in Schedule 1 of the Shareholder Agreement from time to time. For ease of reference, these Shareholder Consent Matters are set out at Appendix 1 to these terms of reference;
 - monitoring the operations and performance of the Company through the receipt and analysis of quarterly reports prepared and presented by officers of the Company;
 - ensuring compliance with the Council's corporate objectives as set out in the Council's corporate plan;

- receiving internal audit reports from directors and officers of the Company;
- receiving quarterly reports on the Company's progress in meeting unmet housing need in the Council's administrative area, including information on land disposals, development appraisals, housing numbers, types and tenures; and
- receiving quarterly borrowing reports for secured and unsecured lending of the Company.

6 **Review**

- 6.1 These terms of reference shall be reviewed at least annually, and any amendments shall be approved by the Council or Council officers as appropriate.

Dated **5th September 2019**

Appendix 1

Definitions

The following definitions are reproduced from the Shareholder Agreement to assist in the interpretation of this Appendix:

Business Plan means the Company's plan for delivery of the Business as updated or amended in accordance with the Shareholder Agreement;

Debt Recovery Policy means the policy of the Company in relation to the recovery of debt owed to it by a tenant of a Dwelling as adopted by the Company (and amended from time to time with Shareholder Consent);

Finance Documents means the equity subscription agreement to be entered into by the Company and the Council on or about the date of this Agreement and any other funding and security documentation which is entered into by the Company relating to the provision of funding for the Business from the Council;

Financial Model means the financial model set out in the Business Plan and initialled by way of identification by the signatories to the Shareholder Agreement, as amended from time to time with Shareholder Consent;

Remuneration and Expenses Policy means a policy adopted by the Company (following receipt of Shareholder Consent) and amended from time to time in relation to the remuneration (including salary, bonus, the provision of benefits-in-kind, reimbursement of expenses or otherwise) of employees (if any), officers and consultants;

Rent and Lettings Policy means the policy of the Company under which it will set the rents of Dwellings and let Dwellings, as adopted by the Company (and amended from time to time) with Shareholder Consent;

Sales Policy means the policy of the Company under which it will sell Dwellings as adopted by the Company (and amended from time to time) with Shareholder Consent;

Shareholder Consent means the prior consent in writing of the Shareholder holding either all, or the aggregate (between them) majority, of the Shares then in issue;

Shares means the ordinary shares of £1 each in the issued share capital of the Company;

Shareholder Consent Matters

Part A - Corporate Matters

The Company shall not, unless it has Shareholder Consent:

- 1 vary in any respect its articles of association or the rights attaching to any of its shares; or
- 2 permit the registration (upon subscription or transfer) of any person as a member of the Company other than the Shareholder in accordance with the terms of this Agreement and/or any permitted transferees; or
- 3 increase the amount of its issued share capital except as provided in this Agreement, grant any option or other interest (in the form of convertible securities or in any other form) over or in its share capital, redeem or purchase any of its own shares or effect any other reorganisation of its share capital; or
- 4 issue any loan capital or enter into any commitment with any person with respect to the issue of any loan capital; or
- 5 make any borrowing other than under the Finance Documents; or
- 6 apply for the listing or trading of any shares or debt securities on any stock exchange or market; or
- 7 pass any resolution for its winding up or present any petition for its administration (unless it has become insolvent); or
- 8 engage in any business other than as contemplated by the Business Plan or defray any monies other than in good faith for the purposes of or in connection with the carrying on of such business; or
- 9 form any Subsidiary or acquire shares in any other company or participate in any partnership or joint venture (incorporated or not); or
- 10 close down any business operation, or dispose of or dilute its interest in any of its Subsidiaries for the time being, or dispose of any material asset unless in each case such closure or disposal is expressly contemplated by the Business Plan; or

11 amalgamate or merge with any other company or business undertaking; or

12 alter its name or registered office; or

13 enter into any transaction or arrangement of any nature whatsoever (including, for the avoidance of doubt, a service contract) with any of its directors or any person who is connected (within the meaning of sections 1122 and 1123 of the Corporation Tax Act 2010) to any of its directors whether or not any other person shall be party to such transaction or arrangement; or

14 enter into any arrangement, contract or transaction outside the normal course of its business or otherwise than on arm's length terms; or

15 create or permit to be created any mortgage, charge, encumbrance or other security interest whatsoever on any material asset or its business in whole or in part or any of its shares other than:

15.1 pursuant to the Finance Documents;

15.2 liens arising in the ordinary course of business; or

15.3 any charge arising by the operation or purported operation of title retention clauses and in the ordinary course of business; or

16 adopt or amend its Business Plan; or

17 change either:

17.1 its statutory auditors; or

17.2 its financial year end; or

18 make or permit to be made any material change in the accounting policies and principles adopted by the Company in the preparation of its accounts except as may be required to ensure compliance with relevant accounting standards under the CA 2006 or any other generally accepted accounting principles in the United Kingdom; or

19 make any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits) or grant any credit (other than in the normal course of trading) or give any guarantee (other than in the normal course of trading) or indemnity (other than in the normal course of trading); or

20 give any guarantee, suretyship or indemnity to secure the liability of any person or assume the obligations of any person outside the scope of its Business Plan; or

21 factor or assign any of its book debts; or

22 establish or amend any profit-sharing, share option, bonus or other incentive scheme of any nature for directors, officers or employees; or

23 establish or amend any pension scheme or grant any pension rights to any director, officer, employee, former director, officer or employee, or any member of any such person's family; or

24 appoint (including setting terms of appointment), remove or dismiss any Director; or

25 agree to remunerate (by payment of salary, bonus, the provision of benefits-in-kind or otherwise) or to increase the remuneration of any employee, officer or consultant to the Company unless the annual aggregate amount of such remuneration (by payment of salary, bonus, the provision of benefits-in-kind or otherwise) is in accordance with the Company's current Remuneration or Expenses Policy or Business Plan; or

26 institute, settle or compromise any material legal proceedings (other than debt recovery proceedings in the ordinary course of business or where the value of such claim is reasonably believed by the Company to be less than £10,000.00) instituted or threatened against it or submit to arbitration or alternative dispute resolution any dispute if the effect of this is that its solvency may be imperilled, or it may require additional funding in order to undertake its Business Plan; or

27 make any agreement with any revenue or tax authorities or make any claim, disclaimer, election or consent for tax purposes if the effect of this is that its solvency may be imperilled, or it may require additional funding in order to undertake its Business Plan.

Part B

Operational Matters

The Company shall not, unless it has Shareholder Consent:

- 1 acquire any land or assets with a value of £1,000,000 or more, unless the acquisition is contemplated in the current Business Plan; or
- 2 enter into any contract with a value of £500,000 or greater, unless the contract is contemplated in the current Business Plan; or
- 3 enter into, as lessor or as lessee, any finance lease with a value of £30,000.00, unless the contract is contemplated in the current Business Plan; or
- 4 adopt or amend:
 - 4.1 the Financial Model; or
 - 4.2 the Rent and Lettings Policy; or
 - 4.3 the Sales Policy; or
 - 4.4 the Debt Recovery Policy; or
 - 4.5 The Remuneration and Expenses Policy