

Public Open Space Management Company Proposal

To give CDL the option to engage with Managing Agents in addition to Betts Ecology and Estates management company, to seek best value for both CDL and residents with regards to maintenance liabilities of POS and the annual service charges these incur on future sites on a scheme by scheme basis.

1.0 Background

- 1.1 CDL's first development scheme at The Frith (Crowmoor) identified the need for a strategy to dispose of the public open space to a management company to deliver the ongoing maintenance requirements, which are then service charged back to residents.
- 1.2 The sole purpose of a management company is to assist the residents by dealing with the maintenance of any 'Common Parts'/'Communal Facilities' i.e. shared areas such as public open spaces, private SUDs, footpaths, including general landscaping and maintenance of grass and open spaces. It should also hold its own public liability insurance for these areas including arranging and dealing with its own company accounts and collection of estate management fees from the residents.
- 1.3 CDL, therefore, went out to tender to eight management companies to take on ownership and management of the POS after final plot sale at The Frith.
- 1.4 Out of the eight companies, Betts Ecology and Estates were the only company to respond with a proposal which included taking on ownership of the POS land. Clarification was sought from the other respondents, but CDL could not, and have not found an alternative company willing to take on liability of ownership of the land on practical completion of the development.
- 1.5 To date, CDL has not received any negative feedback from residents at The Frith about Betts Ecology and Estates and CDL have observed a very clean, well maintained and tidy site on subsequent visits.
- 1.6 CDL are currently engaging with Betts Ecology and Estates on Ifton Green, Ellesmere Wharf and The Oaklands.

2.0 Alternative Management Company Proposal

- 2.1 Despite no issues having currently arisen with Betts Ecology and Estates, due to the number of live sites and increased areas of POS coming across on future schemes e.g. London Road, there is a reputational risk to CDL should the service provided decline.
- 2.2 Further to the above, the current arrangement does not test best value for CDL or residents in relation to set up fees and ongoing service charges.
- 2.3 CDL has therefore researched what other local developers do with the POS on their schemes and have discovered that a more common approach, adopted by most developers, and set out by Roythornes solicitors below for CDL would be:

- Cornovii to set up and create a new build estate management company at Companies House, limited by Guarantee capital (rather than share capital) for each scheme – at the outset, Directors of the management company would be Directors of Cornovii;
- Cornovii to seek tenders and thereafter employ a managing agent to provide or oversee the respective management services provided. The managing agent should then perform most of the duties of running a property under the appointment, control, and direction of the management company – they may insist you enter into a management agreement to formalise the appointment;
- Cornovii ensure each plot purchaser agree (by virtue of contract and transfer provisions) to enter into direct covenants with the management company to agree to become a company Director and/or Secretary (if so required by the management company – this approach is the commonplace approach for developers);
- Once the management company areas have been set up and all plots sold, Cornovii would effect ‘Management Company Handover’ to the residents, via the managing agent. This would result in the following:
 1. Any initial management company contributions be handed over to the managing agent, for the management company;
 2. The management company land be transferred to the management company;
 3. The residents be contacted to seek volunteers for some to become Directors of the management company – if none volunteer, the approach be for residents to be selected at random (as all should have agreed in any event by entering into the contract and transfer originally);
 4. Once residents are duly appointed, the Cornovii Directors resign from the management company, leaving the residents as Directors and confirming handover.
- For the most part, the managing agent should also be guiding CDL through the above points at the requisite times too.

2.4 The above approach requires existing CDL Directors to also be Directors of each new management company (one company for each scheme). CDL Board Directors would resign as Directors at each ‘Management Company Handover’ where residents become Directors which is triggered after final plot sale on each scheme.

2.5 This approach was approved by CDL Board at the meeting held on 7th February 2024.

3.0 Suggested CDL Approach for Future Schemes

3.1 In the Section 106 agreement for more recent planning decisions, the developer is now obliged to first offer the POS and maintenance requirements to the local Parish or Town Council. CDL has done this on all schemes to date but as yet, has not had the offer accepted.

3.2 First refusal will continue to be offered to the local Parish or Town Council for all CDL schemes.

3.3 If the Parish or Town Council do not wish to take on the POS, CDL will go to tender to a minimum of four managing agents, plus Betts Ecology and Estates management company. The tenders will then be analysed and an agent or management company appointed based on best value to both CDL and residents.

3.4 If an agent is appointed, a new management company will be set up and CDL Directors registered as Directors of the new company.

4.0 Recommendation

4.1 HSB is asked to:

- Delegate authority to CDL Board and the Managing Director to set up management companies for Ellesmere Wharf, Ifton Green, London Road and The Oaklands.