

To: Cabinet
Date: 23 June 2021
Status: Non-Key Decision
Director: Andy Blaszkowicz, Corporate Director – Housing & Operations
Cabinet Member: Councillor David Monk, Leader of the Council
Oportunitas Chairman: Councillor Patricia Rolfe

SUBJECT: OPORTUNITAS PROGRESS REPORT 2020/21 (UP TO 31 MARCH 2021)

SUMMARY: This report provides an update from the Board of Oportunitas Ltd (“the company”) on its provisional financial outturn and activities undertaken for the financial year ending 31 March 2021 and is in-line with the requirement contained in the Shareholder’s Agreement between the company and the Council. The chairman of Oportunitas will be available at the meeting to present the report and address any questions.

REASON FOR RECOMMENDATIONS:

Cabinet is asked to agree the recommendations set out below because:-

- a. Oportunitas Ltd (“the company”) is required to provide regular updates to Cabinet as set out in the Shareholder’s Agreement between the company and the Council.

RECOMMENDATIONS:

1. To receive and note report C/21/12.
2. To note the provisional financial outturn for Oportunitas Ltd for the period from 1 April 2020 to 31 March 2021.
3. To note and approve the disposal of land adjacent to 84 Leyburne Road, Dover and provide delegated authority to the Director of Housing & Operations to proceed with the sale achieving best value for the company.
4. To approve the waiving of clause 3.3 defined in the fixed charge (set out in section 4.8 of this report) on proceeds raised from a potential sale of land adjacent to 84 Leyburne Road, Dover and authorise the company to retain it for future investment purposes.

1. BACKGROUND

- 1.1 The report sets out the company's provisional financial outturn position for the year ending 31 March 2021 and also sets out the progress made over this period regarding its property portfolio and trading activity.
- 1.2 The report is a requirement of the Shareholder's Agreement between the company and the Council.

2 INVESTMENT PROPERTY PORTFOLIO UPDATE

- 2.1 The company's current property portfolio consists of 38 residential units and 1 commercial unit and there have been no changes to this during the past year. The existing property portfolio is summarised in the table below:

Address	Units	Type
Walter Tull Way, Folkestone	5	2 x 1 bed units 2 x 2 bed units 1 x 3 bed unit
2 Grove Terrace, Dover Road, Folkestone	1	1 x 4 bed unit
15 Grace Hill, Folkestone	5	5 x 1 bed units
15 Grace Hill, Folkestone	1	1 x commercial unit
82 - 84 Leyburne Road, Dover	8	8 x 2 bed units
19 Castle Hill Avenue, Folkestone	10	9 x 1 bed units 1 x 2 bed unit
84 Sidney Street, Folkestone	4	3 x 1 bed units 1 x 2 bed unit
1 Claremont Road, Folkestone	5	5 x 1 bed units
Total	39	

- 2.2 The property portfolio has been revalued as at 31 March 2021 resulting in a rise from £4.85m to almost £5.2m, an increase of £0.34m or 7% over the year. This now includes a separate valuation of £56k for a parcel of land at 84 Leyburne Road, Dover that has the potential to be marketed as a separate building plot. Excluding the separate parcel of land at 84 Leyburne Road, the existing property portfolio has seen its value increase by £0.287m or 5.9% over the year. A schedule of the latest valuations for the company's property portfolio is shown in appendix 1 to this report
- 2.3 All properties are currently tenanted with the exception of three units that will be undergoing repairs at Claremont Road and Castle Hill Avenue in Folkestone and Leyburne Road in Dover. Where vacancies have occurred the company's agents have worked hard to minimise void periods. The company uses Smith Woolley as its main managing agent for the property portfolio. However, two properties at Walter Tull Way remain being managed by Reeds Rains as it would not be advantageous to Oportunitas to alter this agreement at this time. Management of all the assets within the company will, however, be kept under regular review.
- 2.4 In the aftermath of compliance issues identified at East Kent Housing for the Council's housing stock, the company introduced a property safety register to document key areas of safety compliance across its property portfolio

including, but not limited to, gas, fire, electrical and legionella. The register is continually reviewed with both managing agents and then shared with members of the board on a monthly basis. The March 2021 position of the register identifies no compliance issues within the portfolio.

2.5 Rental Arrears

- 2.5.1 Tenants rent arrears has increased slightly over the past year from £19.5k to almost £21k at 31 March 2021. A further £10k bad debts provision has been made in the accounts to cover the rent arrears meaning almost £19k remains set-a-side for this at 31 March 2021.
- 2.5.2 Over the past year the company has reviewed and tightened its procedures with its managing agents for dealing with arrears and also adopted a new Debt Management Policy to clarify these arrangements.
- 2.5.3 However, temporary legislative changes introduced by the Government under the Coronavirus Act 2020 to protect tenants over the period of the pandemic, coupled with the closure or restricted access to the Courts over the past year, has restricted the ability of the company to formalise action against tenants with significant arrears.
- 2.5.4. The company has the ability to decide on case by case basis, the appropriate course of action to take in recovering any arrears through either an established repayment plan or Section 8/Section 21 notices.
- 2.5.5 The difference between Section 8 and Section 21 are as follows:
- **Section 8 ('Notice to Quit')**: Also known as a "section 8 possession notice" is used to terminate an Assured Shorthold Tenancy Agreement (AST), and can be used at any time during a tenancy. Rent arrears are the most common cause of a section 8 notice.
 - **Section 21 ('Notice of Possession')**: This notice is served to end a tenancy agreement, and requires no other reason for serving the notice other than they want the tenant to vacate.
- 2.5.6 At 31 March 2021 there are six cases where tenants have rent arrears of more than one month, including one former tenant. The managing agent is in regular contact with the existing tenants regarding their arrears and they are currently paying at least their basic monthly rent with some making additional payments towards their arrears. The position is being closely monitored and action may be taken by the company, using the Council's Legal Services team in conjunction with the managing agents, to commence possession proceedings against individual tenants in arrears.

2.6 Royal Victoria Hospital Development

- 2.6.1 Works on Phase A of the Royal Victoria Hospital Development that will bring forward a total of 18 units has continued to progress throughout the year against the backdrop of the coronavirus restrictions. The site has been subjected to quarterly inspections from an appropriately qualified member of the Council's estates team to document the project's development

progress to provide technical assurance and to ensure the company is satisfied with the works before contractual tranche payments are released against an agreed schedule. Progress updates and photos from site inspections have also been presented to board members on a quarterly basis, who have concluded that significant progress has been made on the project during the year.

2.6.2 The last inspection of Phase A carried out within 2020-21 financial year was conducted in March 2021 and highlights the following progress:

- External masonry superstructure alterations and roofing now 95% completed
- Installation of Windows and external doors now 90% completed
- Plastering now 100% completed on first and second floors and in progress within the basement area.
- Heating systems, Kitchens, bathrooms, joinery, decorations 80% completed on second and first floors and in progress within the basement area.

2.6.3 Phase A of the RVH development is still on course to complete in the late summer 2021 as set out in the business plan and a future site visit by the board is to be scheduled in the coming months as national coronavirus restrictions continue to ease. At the 31 March 2021 the company has paid just over £2.5m in deposits and staged payments to the contractor, RVH Folkestone Limited, towards Phases A and B of the development.

2.6.4 Work has commenced to develop a marketing strategy for the letting of the 18 Phase A units with the aspiration of having tenants in place as soon as the property is handed over to the company.

3. PROVISIONAL FINANCIAL OUTTURN FOR 2020/21

3.1 The company's provisional financial outturn for the year ending 31 March 2021, including a commentary on the accounts, was reported to the Board on 24 May 2021 and is shown in appendix 2 to this report. The accounts are subject to an independent Audit which has yet to take place.

3.2 **Profit and Loss Account** – In summary the key points from the company's Profit and Loss Account are:

- i) Profit before tax of £252k including the unrealised property valuation gain of £343k
- ii) Excluding valuation gain, an operating loss of £91k has been made and is broadly in line with expectations
- iii) Majority of turnover is from residential property lettings
- iv) Grounds maintenance income is now limited to a small amount of activity mainly for tree works

- v) Return from the new investment in the RVH scheme required to make the company financially sustainable over the medium term

3.3 Balance Sheet – The key points from the company’s Balance Sheet are:

- i) A further £1.227m has been paid towards the RVH scheme in 2020/21 making a total of £2.502m
- ii) The Council’s equity investment in Oportunitas to support the RVH acquisition has increased from £1.79m to £3.87m

3.4 Shareholder Benefit – The gross shareholder benefit to the Council from its interest in the company during 2020/21 amounted to £287k. However, the equity investment of £3.87m has been met from prudential borrowing and this has incurred a capital financing cost estimated to be £57k reducing the net shareholder benefit to the Council to £230k.

4. 84 Leyburne Road – Disposal of Land

- 4.1 The company purchased 82-84 Leyburne Road, Dover in December 2016 for £810k. The properties are two Victorian terrace houses comprised of 8 x 2 bedroom units and detached garage unit that is currently rented for £60pcm.
- 4.2 The company secured planning permission in 2019 from Dover District Council to redevelop the land of the existing garage unit at 84 Leyburne Road, Dover into a two-storey, two bedroom, single dwelling (DDC Planning ref: 19/0019). The project to redevelop this land was decided not be pursued by company following a review of its strategic direction in the summer of 2019 that concluded the company’s focus should be on projects that would generate higher commercial rates of return for the shareholder, notably the Royal Victoria Hospital scheme.
- 4.3 In early 2021, the company was approached by an external party who has expressed an interest in purchasing the land with the intention to develop it in the same manner the company originally secured planning permission for back in 2019, albeit with their own design improvements. The land has been subject to formal valuation undertaken by Sibley Parres that confirms the plot size to be 158.78 sqm (1,698 sq ft) and concludes its market value to be £56k.
- 4.4 The valuation report sets the context of the land as an urban site situated within a street comprised of blocks of flats and terraced housing. On its east side its immediately adjacent to 82 and 84 Leyburne Road and on the west side adjoins a site which has planning consent for 3 bedroom detached house which is adjacent to 86 Leyburne Road which has recently been converted from a single dwelling into a pair of four bedrooed semi-detached houses. This site is located half a mile north of Dover Town Centre as well as a mile from both Eastern and Western docks.
- 4.5 In the context of the local residential property market, the valuation report highlights there has been a shortage and good demand for small building plots such as this and in terms of local prices, the average price of semi-

detached and detached houses within the Dover District has risen by 10% according to UK House Price Index between the period January 2020 – February 2021. Prices have increased as a result pent up demand caused by the first coronavirus lockdown and the extension of the government freeze on stamp duty on properties sold up to the value £500,000 that has been extended 30th June 2021.

- 4.6 The sale of this land is not included within the scope of the company's current business plan covering the 2020-22 period, therefore this report seeks cabinet approval as per recommendation three to approve the disposal of land adjacent to 84 Leyburne Road, Dover with delegated authority being provided to the Director of Housing & Operations to proceed with the sale to achieve best value for the company.
- 4.7 Further work is to be undertaken on determining rights that will need to be reserved by company within the potential transfer and this will be worked up into a Land Registry compliant plan that will ensure essential access is maintained to 84 Leyburne Road in case of emergency or any future maintenance works associated with this property.
- 4.8 In relation to any proceeds arising from sale of this land, there is a fixed charge over 82-84 Leyburne Road established between the company and the council that governs this and proceeds arising from sale under the fixed charge would appear to belong to the Council as lender by virtue of clause 3.3:
- The Borrower agrees that the security granted by it in this Fixed Charge shall be a continuing security in favour of the Lender extending to all beneficial interests of the Borrower in the assets hereby charged and to any proceeds of sale or other realisation thereof or of any part thereof.*
- 4.9 In light of the fixed charge stating that the proceeds of sale should be returned to the Council, Cabinet is asked as per recommendation four of this report to consider the waiving of clause 3.3 defined within the fixed charge on proceeds raised from a potential sale of this land and authorise the company to retain it for a future investment purposes.

5. Website Update

- 5.1 The current Oportunitas website was established back in 2014 with very minimal content that currently features: a brief statement about the Company's objective, names of Company board members and its supporting officers as well as a contact form to submit enquiries to the company.
- 5.2 A new website design has been worked up throughout the year in order to improve the overall presence of the company and information about its trading activities and partners. The board has been kept up to date on the development of the new website through quarterly board meetings and have provided feedback on changes they would like to see integrated into the design.

- 5.3 The latest version of the website design was presented to the meeting of the board on 24th May 2021, where it was concluded that the launch of a new website should be delayed until later in the summer to allow for further work to be developed around a wider marketing strategy and supporting materials for Phase A of the Royal Victoria Hospital development that can be integrated into the company's new website design to promote and signpost any perspective interest to Smith Woolley as the marketing agent.

6. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

- 6.1 **Legal (NM)** – The power for councils to trade their services for cost recovery only has been in force for many years. The power for councils to establish companies to trade for profit is set out in the Localism Act 2011. The company model provides a mechanism for local councils to operate more commercially and generate profit.

Officers have taken specialist legal advice from Bevan Brittan and will continue to work with these external legal advisers as and when the need arises.

- 6.2 **Finance (LW)** – This report has been prepared in conjunction with Financial Services and there are no further comments to add.
- 6.3 **Diversities and Equalities (GE)** – There are no diversity or equalities implications arising from this report.
- 6.4 **Communications (KA)** - There are no communications implications arising from this report.

7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officers prior to the meeting:

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Appendices

Appendix 1: Oportunitas Property Portfolio Valuation Schedule 31 March 2021

Appendix 2: Oportunitas Limited Financial Outturn 2020/21 (subject to audit)