

To: Cabinet
Date: 25 January 2023
Status: Non-Key Decision
Director: Andy Blaszkowicz, Corporate Director – Housing & Operations
Oportunitas Chairman: Councillor Patricia Rolfe

SUBJECT: OPORTUNITAS PROGRESS REPORT 2022/23 To 31 October 2022

SUMMARY: This report provides an update from the Board of Oportunitas Ltd (“the company”) on activities undertaken so far during the 2022/23 financial year, including a projected outturn for the profit and loss account for the period to 31 March 2023 compared to the original forecast, based on activity to 31 October 2022. The report also outlines the company’s audited Statement of Accounts for the financial year ending 31 March 2022. Additionally, the report seeks Cabinet’s permission for the company to retain the proceeds from the sale of a piece of surplus land from its property portfolio. This report 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 of Cabinet to present the report and to 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/22/81.
2. To note the Full Statement of Accounts and Directors’ Report for the financial year ending 31 March 2022.
3. To note the latest projected outturn for the Profit and Loss Account of Oportunitas Limited for the financial year ending 31 March 2023.
4. To approve the company retains the £60,000 receipt from the sale of surplus land at 84 Leyburne Road, Dover to be used towards future property maintenance costs.

1. BACKGROUND

- 1.1 The report sets out the company's current progress in 2022/23 in relation to its investments and trading activity, based on activity to 31 October 2022, and is a requirement of the Shareholder's Agreement between the company and the Council. Cabinet considered the previous progress report for the company on 20 October 2022, based on activity to 31 July 2022 (minute 31 refers).
- 1.2 The report sets out the company's audited Statement of Accounts for the financial year ending 31 March 2022 and outlines the changes from the provisional outturn position reported to Cabinet on 20 July 2022 (minute 13 refers).
- 1.3 The report also provides a financial update for the current year including the latest projected outturn for the company's profit and loss account for the financial year ending 31 March 2022 compared to the original forecast for the year which was set as part of the current approved Business Plan. The financial update includes the latest position regarding the company's expenditure and funding for the acquisition of residential properties at the Royal Victoria Hospital (RVH) site in Folkestone.

2 INVESTMENT PORTFOLIO UPDATE

2.1 Property Portfolio

- 2.1.1 The company's current property portfolio remains at 56 residential units and 1 commercial unit, 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
10 Radnor Park Avenue, Folkestone (Royal Victoria Hospital – Phase A)	18	15 x 2 bed units 3 x 1 bed units
Total	57	

- 2.1.2 All residential properties are currently tenanted with the exception of one unit at Leyburne Road in Dover that has now been let with tenancy due to commence this month (January 2023) . 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. Management of all the assets within the company continue to be kept under regular review. The commercial unit at 15 Grace Hill, Folkestone is currently vacant and unable to be let due substantial damage following a leak from the flat above. The company is currently pursuing an insurance claim for the repairs, however the insurer has initially repudiated this on the grounds the commercial unit was vacant. This decision is being challenged with the insurer.

- 2.1.3 The company continues to maintain 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 the Board members each month. The November 2022 position of the register identifies no compliance issues within the portfolio.

2.2 Tenant Rental Arrears

- 2.2.1 At 31 October 2022 the property portfolio has tenant rental arrears of £16,287 for its property portfolio, a slight increase of £224 compared to the previously reported total of £16,063 at 31 July 2022.

- 2.2.2 There are nine tenants with rental arrears of one month or more as at 31 October 2022, an increase of one case from that previously reported as at 31 July 2022, and the managing agent is working closely with those tenants to actively reduce this. Almost half of the £16k arrears relates to one tenancy. In this case, the managing agent is in regular contact with the tenant who is currently paying their basic monthly rent and making additional payments towards their arrears through a debt management plan. The position continues to be closely monitored for all the arrears and action may be taken by the company, using the Council's Legal Services team in conjunction with the managing agents, in-line with the company's Debt Management Policy.

2.3 Royal Victoria Hospital (RVH)

- 2.3.1 As previously reported to Cabinet on 20 October 2022, work on Phase 2 of the RVH Development, to provide a further 19 units of residential accommodation in a new four storey block in Radnor Park Avenue, Folkestone, is now not expected to be completed until the autumn of 2023. Cabinet is reminded that the company entered into a fixed price contract to acquire both phases of the RVH development from the developer. Although the delay to Phase 2 is disappointing, the company has been shielded from the direct impact of impact of construction inflation since the contract was signed in February 2020.

- 2.3.2 The delay to Phase 2 adversely impacts the company for both the 2022/23 and 2023/24 financial years compared to the current business plan. The existing business plan assumed the units would be let from December 2022, however the latest assumption is this will now be from mid-November 2023. Financially, it is estimated this will mean a total reduction in net income to the company of £82k (£11k in 2022/23 and £71k in 2023/23)

compared to the approved business plan, outlined in more detail in appendix 3 to this report.

2.3.3 Almost £1.9m of the agreed purchase price of £3.3m for RVH Phase 2 had been paid to the developer at 31 October 2022 and is reflected in section three below. The site has been subject 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.

2.3.4 The latest inspection of Phase 2 was conducted on 18th November 2022 and highlights the following progress:

- Roof covering - 100% completed
- Brickwork and blockwork - 80% completed
- Window installation - 30% completed
- Lift installation - 75% completed
- Plumbing (first fix) started

2.4 84 Leyburne Road – Disposal of Land

2.4.1 The sale of the surplus land adjacent at 84 Leyburne Road, Dover for £60k was completed on 24 October 2022. The legal agreement between the Council and the company requires proceeds from property sales to be paid to the Council unless agreed otherwise. Essentially this is a safeguarding measure to protect the Council's investment in the company for the acquisition of the property for rent. Given the land sold was surplus to requirements, was a not a factor in the original decision to purchase the building itself and the approved business plan endorsed by Cabinet assumed the sale proceeds would be used by the company, the Board is now seeking formal permission from the Council to retain the £60k receipt to be used towards its property maintenance programme.

3. FINANCIAL OUTTURN TO 31 MARCH 2022

3.1 The company's provisional financial outturn for the year ending 31 March 2022, subject to Audit, was considered by Cabinet on 20 July 2022. The Board considered and approved the company's audited statement of accounts at its meeting on 22 November 2022. A copy of the outturn report to the Board and the full Statement of Accounts and Directors' Report for the financial year ending 31 March 2022 are shown in appendices 1 and 2 respectively to this report. The main changes made to the audited outturn compared to the provisional position reported in July are outlined below.

3.2 **Profit and Loss Account – Appendix 1** shows the profit after tax is £476,423, an increase of £170,747 compared to the provisional figure of £305,676. The reasons for this increase are summarised below:-

Adjustment

Amount (£)

i)	An increase in unrealised property valuation gains for the investment property portfolio to reflect updated market value information as at 31 March 2022, advised by the external valuer	291,950
ii)	An increase to the deferred Corporation Tax liability applicable for the year	(111,810)
iii)	An increase in rental expenses mainly due to a backdated electricity charge for 1 Claremont Road	(9,393)
	Total adjustment	<u>170,747</u>

3.3 Further information regarding these changes is contained in appendix 1.

3.4 The full Statement of Accounts shown in **appendix 2** has been submitted to Companies House as a matter of public record.

3.5 **Audit Opinion – It is pleasing to note the Auditor has given an unqualified opinion of the company’s accounts for the financial year.**

4. FINANCIAL UPDATE FOR 2022/23

4.1 The company’s latest financial update for 2022/23 was reported to the Board on 22 November 2022 and a copy is shown in **appendix 3** to the report. The update shows the latest projected outturn for the profit and loss account compared to both the original forecast and previous projection for the current financial year to 31 March 2022 together with the latest position for the RVH scheme.

4.2 In summary, the company’s profit and loss account is projected to make an operating profit of approximately £60k for the year, an increase of £64k compared to the original forecast operating loss of £4k. The profit is about £47k more than previously projected to the Board on 5 September 2022. In summary, the main reason for the projected increase in the operating profit is the expected deferral of the special item for external repairs and redecorations until 2023/24.

4.3 It should be noted the profit and loss account excludes any change in unrealised property values. The company’s property portfolio will be revalued as at 31 March 2023 ahead of finalising the accounts for the financial year.

4.4 The table below summarises the latest position for capital expenditure incurred on the RVH development:

	Phase 1	Phase 2	Contract Total	SDLT	Total
	£m	£m	£m	£m	£m
Agreed Sale Price	3.150	3.300	6.450	0.250	6.700
Paid to date	3.150	1.867	5.017	0.112	5.129
Balance	-	1.433	1.433	0.138	1.571

4.5 The funding of the capital expenditure incurred to date has been met from the proceeds of the Council's additional equity investment of £4.43m in the company and £0.5m of the agreed loan facility of £2.47m. The loan facility will be used to complete the purchase of phase 2 of the scheme. Interest will accrue on this loan and becomes payable once the scheme is completed.

4.6 The latest projected net financial benefit to the Council from the company in 2022/23 compared to the original estimate is shown in the table below:

	Estimate 2022/23 £'000	Projection 2022/23 £'000
Loan interest	286	245
Loan repayments	38	30
Staff costs - reimbursement	28	28
Members Allowances - reimbursement	12	10
Grounds Maintenance recharge	12	6
Total Benefit	376	319
Less, FHDC capital financing cost	(119)	(77)
Net Financial Benefit	257	242

4.7 The reduction in the benefit to the Council is mainly due to the loan to the company for the RVH scheme not being required as early as originally anticipated. The net financial benefit to the Council has been included in the latest General Fund budget monitoring report for 2022/23.

5. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

- 5.1 **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.

- 5.2 **Finance (LW)** – This report has been prepared in conjunction with Financial Services and there are no further comments to add.
- 5.3 **Equalities (GE)** – There are no diversity or equalities implications arising from this report.
- 5.4 **Climate Change (OF)** - There are no climate change implications arising from this report.

6. 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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Telephone: 01303 85 3593
Email: lee.walker@folkestone-hythe.gov.uk

Gavin Edwards, Board Administrator (Oportunitas Ltd)
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Appendices:

Appendix 1: Oportunitas Ltd Board Meeting 22 November 2022 – Board Paper
Oportunitas Ltd Audited Statement of Accounts to 31 March 2022

Appendix 2: Oportunitas Ltd Statement of Accounts and Directors' Report for the financial year ending 31 March 2022

Appendix 3: Oportunitas Ltd Board Meeting 22 November 2022 - Financial Update Report for 2022/22