

South Devon Rural Housing Association Ltd
Minutes of the Board of Management Wednesday 19th July 2017, at 5.00 pm
At South Park Community Centre, Buckfast

Present

Board Members

Jim Davis – Chairman (JD)
Roger Hands (RH2)
Sally Fairman (SF)
Martin Lightfoot (ML)

Staff

Steve Prime - SDR Chief Executive (SP)
Francis Bourke – Operations Director (FB)
Claire Barnett – Finance Director (CAB)
Julie Garner – Minutes (JG)
Stephanie Warboys (SW) Audit Director

NO: Agenda Item

1 Apologies

Rod Hewett (RH) Charlotte Burrows (CB) Prana Simon (PS)
Alec Munro (AM) Sebastian Stewart (SS)

2 Minutes for May 2017 Board

JD opened the meeting and welcomed everyone.
SP had received a note from RH on the minutes and explained P4 line 4 needs to be amended to; RH added that the new properties added to the balance sheet will be at cost but the market value is much higher which is good.
P4 second paragraph line 8 needs to be amended to; SDR to monitor RHL financial position and thereby manage SDR loan position.

JD signed as a true record.
All in favour

The Board approved the minutes to the May board meeting.

3 Matters Arising

IT upgrade

This was discussed at the previous board meeting.

Chairman's Action

SP advised that Chairman's action was sought to purchase a house for the Ellis family previously approved by board. The final price negotiated was £325,000 with SDR completing some minor repairs prior to selling on a shared ownership lease as previously agreed. Mr & Mrs Ellis will take a 33% equity stake and pay rent on 33% with SDR holding a further 33% equity stake on which no rent will be charged.

Board to ratify Chairman's action to authorise the purchase of the Laurels, Marldon as a shared ownership unit for the Ellis family.

Proposed: SF
Seconded: RH2
All in favour

4 Declaration of interests

ML declared an interest in Partnership SW as he is employed by DCH. AS ML declared an interest in this matter SP suggested bringing the item forward as it was only a verbal update and that was that the papers were available for signing at this meeting.

5 1 Financial Reports
1a Q1 Management Accounts & Appendix 1

CAB advised the projected outturn for 2017/18 is slightly lower than the budgeted figure and that SDR need to try and ensure the empty bungalows are demolished as soon as possible to keep costs down. CAB also advised there is a large utility bill of £4,000 for South Devon House in dispute. ML queried the usual cost of this utility bill, CAB advised it is normally £1500 per annum and added that a smart meter has been installed at South Devon House, which had caused some billing issues and that SDR will be changing provider. RH2 queried the capitalised interest charge in the accounts and CAB advised the figures were accurate and allowable to recharge to the capital scheme.

Board members noted the Q1 figures for 2017/18.

1b Audit Report & insert

SW ran through the report.

Section 1 – There is 1 outstanding audit query regarding title deeds which will be completed this week.

Section 2 – identified some reconciliation issues with the management accounting systems and the FRS102 spreadsheets A lists of reclassifications for presentation in the accounts is shown in section 4 of the report. There are no errors in the accounts but figures needed to be shown in the correct place.

Workings have been looked at with regards to impairment and there is no impairment, as discussed at the May Board and ratified by the auditors. The going concern will need a further check following Brimhay cashflow update and information regarding the proposed new loan from Lloyds Bank.

Section 3 – there were no audit and accounting issues identified during the audit.

Section 4 – SW referred to the unadjusted adjustment of £2,276 on the depreciation charge, which was not considered material.

Section 5 – Deficiencies in internal control – SW referred to these as housekeeping matters and said the Board will need to lead.

1st Point SW said there needs to be closer control over supplier bank details being amended on the online banking system.

CAB advised this is being looked at by CAF Bank to prepare a report; otherwise verification of changes is not always easy. RHS said he is concerned with the verification procedure and asked who has access to the supplier details. CAB advised that JG and the Finance Assistant, LB, have access as they need to be able to set up the payment run through the online banking system, but this also allowed them to amend bank details.

CAB added that checks are very thorough when large payments are made. CAB advised that when changes to supplier details are made the person making the change will be notified by text but CAB will not be notified and that SDR are working with CAF about this.

SW continued with the 2nd point – Fixed Asset Accounting. SW advised there is a need to use a fixed asset register rather than spreadsheets, which SDR currently use and are prone to error.

3rd point – Access to Finance Systems. RH2 queried if the timescale of March 18 is realistic? SP replied that the problem is the providers of our software will not set up restrictions for individual members of staff as this is very complex so and not part of their remit SDR are trying to find another way of restricting access to SP.

SW said there would need to be a routine procedure in place for FB and CAB to print off the audit log on Omni. CAB said she will contact SHAL and Cornerstone housing associations, who also use Omni, and ask how they deal with this issue.

Section 6 – SW advised the Board that SDR need to use the term ‘group’ instead of ‘Association’ for reporting purposes.

Section 7 – SW referred to the Association’s balance sheet which shows no impairment for RHL loan to SDR and due to the loss in the year for RHL this could lead to them being unable to repay the whole amount due to SDR. This needs to be kept under review.

Section 10 – Internal Controls Statement. SW advised the board they will need to acknowledge the internal controls statement and to advise RSM of anything to report. Nothing was reported.

SW advised this is the last year that RSM will be auditing the accounts for SDR. RH2 requested the items raised in the report are agenda items at future board meetings.

Board members to approve the Audit Findings report for the year ended 31st March 2017.

Proposer: ML

Seconder: SF

All in favour

The Board to approve the letter of representation to the Auditors

Proposer: ML

Seconder: SF

All in favour

A board member signed the letter of representation to the Auditors.

1c Annual Accounts & insert

CAB advised the surplus had increased from the figure reported to Board in May to £246,067. It was adjusted for the depreciation write out for 6 Kings Orchard which was discussed at May Board. CAB added it has been a positive year and SDR need to manage RHL's financial position as they reported a small loss in the year, which is quite normal on start up. JD advised the board that RH has sent his congratulations on the successful completion of the accounts.

ML raised the issue of contingent liability in the financial statements. SP advised SDR own houses on Grove Close in Totnes built on land previously owned by SHDC which had previously been a gas site, whom commissioned an environmental report to look at contamination liability on the site. SDR have advised all tenants on Grove Close not to eat anything grown in their gardens. There is a possible chance that there could be a contingent liability which is why it is reported in the accounts. Although SP advised that the liability would be with SHDC. A school was built on the same site. SP believed tests were carried out when the school was extended and he was not aware of any issues.

SW advised if the liability is remote then the statement is not required in the accounts. RH2 said without ground tests SDR can't say the risk is remote. SP added that SHDC Environmental Health advised tenants should be advised not to eat any produce from gardens on Grove Close. JD asked if SDR hold any paperwork relating to this report. SP replied that the original paperwork will be sought out and looked at noting the advice was given some considerable time ago.

Staff then left the meeting to enable SW and the board to discuss the accounts. Staff re-joined the meeting.

Board members to approve the annual accounts for 2016/17

Proposer: RH2

Secunder: ML

All in favour, board members approved the annual accounts

1d Capital Programme Components

CAB reminded the board that they had agreed to a carry forward for Bramble Close kitchens that were not completed by the year end and the £170,805 was left to spend, for which the Operations Director had a plan for the spend. ML queried the £9,782 figure for the heating system at 14 Church Park. FB advised this is a large property and is disabled adapted, the cost included removing a full oil heating system, before installing the new electric system but on average the range for electric heating systems was £4,000 to £6,000.

The Board noted the expenditure to date for 17/18

1e Lloyds Loan Report & Appendix 1 & 2

CAB advised the board that she has had several conversations with the Relationship Manager at Lloyds to ensure he had a complete understanding of the proposed capital schemes to be funded and the financial position of SDR, not just for the Lloyds loan, but also for the Brimhay scheme. The proposed loan covenant needs to ensure 110% cover for capital and interest payments. Current loan covenants are 110% interest only cover as shown on the management accounts report.

This is to ensure SDR have enough cash to pay the capital repayments as well as interest charges. SP said there were concerns that Lloyds were introducing new controls but that SDR must be doing well for Lloyds to consider the loan in the first place. CAB added that Lloyds have to stress test the figures so that if the base rate rises to 3.5% SDR will still be able to manage the loan. CAB when producing the budget will inform the board of the impact of a 1% change in base rate to the variable rate loans SDR hold. CAB stated that she understood why they need to stress test at 3.5% but the likelihood of the rates in this financial year increasing to 3.5% were remote and would cause financial chaos across the country.

The gearing ratio may go up as far as 74% in the peak development period with full loan drawdown, without adding to the fixed asset value held by SDR as the builds at Wrangaton and Brimhay may be running at the same time.

The covenant is less than 65% but as this is only for a short period and the bank will be kept informed this will be acceptable. SP advised he was hoping for a more concrete decision from Lloyds at this stage. RH2 requested that board members be kept in the loop but raised concerns about sale prices for the market sales. SP added that SDR are on top of market reports and that RHL are only planning to build 3 houses at a time, and 12 flats, in Brimhay in phase 1 and that if necessary the open market sales could be converted to market rents to meet loan commitments. SP said the second loan does not have non-utilisation charges so the risk is reduced and that SDR are comfortable with where they are.

CAB said she will email the board members the financial figures that she had worked on with Lloyds Bank showing the worst case scenario.

SW and CAB left the meeting.

SP advised the board that for the last 3 years he has made 3 complaints to the auditors regarding duplication and disorganisation. He made a complaint a few weeks ago which was largely ignored and SW spoke to CAB about the issue which he found unacceptable. He did not pursue the matter as SW had indicated terminating. This will be the last year SDR will use RSM. New auditors will be appointed at the AGM and a quotation has been received from Bush and Co. ML asked what the tender limit was SP advised the tender requirement was for contracts over £10,000 and that under that amount required 2 quotations.

CAB will email the board members with additional information regarding the Lloyds loan.

1f Capital Programme Report & Appendix 1 & 2

SP advised the report shows the cash situation with regard to cash flow. ML referred to concerns with the issue of builds at Brimhay and Wrangaton being run at the same time. SP said the cash flow will be reviewed monthly and that SDR are in a good position with Brimhay and aware of the likely impact of running multiple projects.

RH2 referred to the old Totnes Road site sale figure of £380,000. SP advised that SDR hope to break even and that SDR haven't yet got a build contract but that there is a groundworks contract in place and a build costing is being sought. Costs for groundworks and a retaining wall could be approx. £65,000 which is slightly over the current budgeted figure. SDR have paid 2 contractual instalments of approximately £10,000 so far.

The board noted the Capital Expenditure & cash flow for 17/18 & 18/19

1g Annual Report

FB advised the board that he has received positive feedback from S.S.

The Board to approve the annual report for 2017 and for the report to go to print.

Proposer: ML
Secunder: RH2
All in favour

6 2 Development Report

2a Rural Homes Development Report

The Board noted the Development report and the future development report from Rural Homes Ltd.

2b VAT and Tax Advice Francis Clark – Brimhay insert

The board noted the report and the recommendations therein and authorised the Chief Executive to proceed with option 2 subject to further legal advice.

2c Revised Financial Appraisal (Brimhay) & Appendix 1

SP advised this is a new updated financial appraisal system and to treat it as any other land development to question if Brimhay is a viable project. The build generates a surplus in year 25 and asset management is 168% so a positive return.

SP added the land is shown on the financial summary as a negative figure to demonstrate the scheme stacks up on merit.

The land has a value of £1,000,000 includes the access road and another small area of land purchased separately at approx. £290,000. The Francis Clark report advised SDR that adding value to the land could lead to a potential tax liability if it were deemed to have commenced the development and enhanced the value of the land. SP advised that if SDR sell the land to RHL at £500,000 SDR will benefit from 63% commitment to affordable housing which should satisfy charity rules but in any case he will commission valuations on the site with the current planning commitment and as a clean development site. SP went on to discuss the options.

Option 1 – could result in a tax liability.

Option 2 –SDR will need to draw up a conditional contract if SDR transfer the land to RHL. RHL will build the 12 flats for rent and then build the 3 houses for market sale. SDR could use the 'Golden Brick' rule to avoid VAT negating risk.

RHL will then not pay VAT on build costs as it would be zero rated. SP advised that he will be meeting with lawyers on Friday to discuss the tax issues. RHL will deal with the whole build. RHL hasn't got any money but will have a loan from SDR for £1,200,000. Coyde Construction will do the valuation. RHL will need to look at a fair contribution to the infrastructure and this will be included in the RHL cash flow figures. SP added that 2 valuations will be commissioned on 2 scenarios. RH2 queried if the loan to RHL will be unsecured and questioned the tax position. SP advised this should be acceptable with a conditional contract. RH2 queried SP position with RHL. SP advised his time is charged to RHL and he does not receive a salary from RHL. JD expressed some concern with the tax liability with this arrangement. ML commented that this was current industry standard where RP's have a development subsidiary and is ok. SP will be finalising details with lawyers shortly.

Board members noted the report.

2d Revised Tender & insert Appendix 1 VFM Report (Brimhay)

RH2 queried if this included legal costs. SP said this indicated only the build costs legal and other fees to be paid by SDR are not included. SP added that the numbers still work and the cost has increased overall in the two years plus, by about 8%. JD queried if the road and services are in phase 1. SP confirmed they are included and will also include a bond as this will be a Design and Build contract. SP added that all the planning conditions will be contractor responsibility. SDR will have to pay for environmental supervision fees and a client contingency of £50,000 will be included. SP added that £30,000 for 10 parking places to be provided for Brimhay Nursery, now a sec 106 requirement and a contribution of c£45,000 to offset loss of open space.

SP advised that SHDC made the condition that section 106 had to be signed within 13 weeks but SDR haven't, as yet, heard anything from SHDC planning department. SP added that SDR do not need section 106 to demolish the site but that one Brimhay tenant may need to be evicted which could delay demolition. SP added that the Francis Clark report was late and this has impacted on the board discussion and recommendation as it has thrown up some risks for SDR in relation to tax liability. The road is going to be adopted and the bond may be £50, 000 to £100,000 which will be a contractor liability.

The board to approve Option 2

Proposer: RH2

Seconded: ML

All in favour

2e Partnership South West (Verbal Update SP)

This was discussed in matters arising.

7 3 Governance

3a Policy Development Report & Appendix 1 & insert

SP advised this is an update.

The board are recommended to approve the Financial Regulations and Standing Orders.

Proposer: ML

Secunder: SF

All in favour

3b The Board, Chairman and Member Appraisals (Verbal Update SP)

SP advised the board that SDR have commissioned a consultant to review the appraisal procedure and that the policy and procedure will be ready in October for discussion and implementation.

8 4 Finance Reports To Note

4a Treasury Report

ML queried if the previous quarters figures could be included to show a comparison which would be useful. SP said he would recommend this to CAB to look at.

The Board noted the loans and balances held.

- 9 5 Housing and Maintenance**
- 5a Performance Dashboard & Appendix 1**
SF referred to the re-let time and said that these issues are beyond SDR's control. FB advised that the delay in relets was due to supporting some Brimhay tenants to relocate.
- The Board noted the Performance Dashboard and Appendix 1.
- 5b Lettings Report**
- The Board noted the lettings report
- 10 6 Complaints and Anti Social Behaviour Monitoring**
- The Board noted the report.
- 6a ASB Monitoring Report**
The Board noted the ASB Monitoring Report
- 11 7 Health and Safety Report**
The Board noted the report
- 7a Gas Servicing Report**
The Board noted the gas servicing report.
- 12 8 Care Managers Report**
The Board noted the Care Managers Report
- 13 9 Project Report**
- The Board noted the Project Report
- 14 10 Any other Business**
- ML referred to the Audit report contingences. SP advised this will be included in the agenda of the next board meeting.
- SF referred to the new heating system in 14 Church Park and FB advised the breakdown of costs as discussed in Capital Programme Components agenda item 1d. JD asked if the numbering system for appendixes could be changed as the present system can be confusing.

15 11 **Date of Next Meeting: 18th October 2017**
AGM 13th September 2017

The meeting closed at 7.50 pm.

Signed.....

Date.....

SOUTH DEVON RURAL ASSOCIATION LTD

A meeting of the Board of Management will be held on
 Wednesday 18 October 2017 at 5 p.m.

South Park Community Centre, Buckfast Rd, Lower Mills, Buckfast, TQ11 0EB

AGENDA

1	(SP to Chair Part 1) Apologies	
2	Election of Officers	
3	Minutes of Previous Meeting: July 2017	
4	Matters Arising: Ellis family	
5	Declaration of Interests	
	Reports for Decision	Agenda Item
6	Financial Reports	1
	Q2 Management Accounts	1a
	Financial and Standing Orders – Minor Corrections	1b
	Lloyds Loan Verbal update	1c
	Capital Programme Components	1d
	Capital Programme & Appendix 1 & 2	1e
7	Development Report	2
	Rural Homes Development Report	2a/2b
	Brimhay Special Report	2c
8	Governance	3
	Policy Development Report	3a
	Corporate Risk Map Review	3b
	Board, Chairman and Member Appraisals (Verbal Update SP)	3c
	Corporate Diary 2018	3d
	Reports to Note	
9	Finance	4
	Treasury Report	4a
10	Housing and Maintenance	5
	Performance Dashboard & Appendix 1	5a
	Lettings Report	5b
11	Complaints and Anti Social Behaviour Monitoring	6
	ASB Monitoring Report	6a
12	Health and Safety Report	7
	Gas Servicing Report	7a
13	Care Managers Report	8
14	Project Report	9

DOM: 31st January 2018

SOUTH DEVON RURAL HOUSING ASSOCIATION LTD

Author Claire Barnett

Board of Management

Agenda Item (1a)

Financial Report

FOR INFORMATION

Purpose

To provide the Board with the Q2 figures for 2017/18.

Report

The Association's revised budgeted surplus for the year 2017/18 was £32,957 agreed at the January 2017 board meeting. The Q2 figures show a surplus of £81,405 compared to a budgeted surplus of £15,535.

The projected outturn for 2017/18 is £32,202.

Virement

The insurance budget of £19,647 has been moved from the management cost centre to the housing cost centre as the insurance is mainly for property insurance and it is appropriate to cost directly to housing.

The main variances are listed below:-

Housing

- There was no budget provision for any income from the Brimhay properties. £11,787 was generated in the first quarter of the year, which explains part of the £35,408 variances at Q2 but the remaining balance requires further checking.
- The costs of the council tax and utilities for the empty Brimhay properties are now charged to revenue. Costs included to date total £10,023. The outturn has a projected spend for these properties but had assumed demolition by the end of September 2017. This has not been updated for the delay in demolition.

Forder Lane House

- The additional rental income relates to income accrued from 16/17 for 1 & 2 April of £3,900
- The costs are lower due to much lower gas and electric bills. These are being closely monitored to ensure they are correct, as we have been experiencing some issues with billing delays. This from more than 1 supplier.

South Devon House

- A large electric bill was received which was unexpected and not consistent with previous billing. The bill is being disputed, however it has been paid by Direct debit so included as a cost.

Management

- The legal and consultants budgets – both £10,000 - have yet to be spent for this financial year which is the main underspend in this cost centre.

Finance Costs

- The interest figures are below budget as £5,326 has been recharged as capitalised interest to the Brimhay capital scheme.

Recommendations

Board members are recommended to approve the virement of the insurance budget of £19,647 from the management cost centre to the housing cost centre.

Board members are recommended to note the Q2 figures for 2017/18

South Devon Rural Housing Association					Appendix 1 (1a)	
	Budget	Q2	Q2	Variance	Percentage	Projection
	2017/18	Budget	Actual	To Budget	of annual	2017/18
	£	2017/18	2017/18	£'000	budget	£
		£	£		%	
Housing	1,392,664	696,332	731,740	35,408	53%	1,398,926
Forder Lane House	728,771	366,615	372,508	5,893	51%	733,086
South Devon House	80,085	40,043	41,051	1,008	51%	81,676
Management	54,401	27,201	30,858	3,657	57%	56,069
Total Income	2,255,922	1,130,190	1,176,157	45,967	52%	2,269,757
Expenditure						
Housing	247,749	144,443	153,321	(8,878)	56%	265,914
Development Costs	20,000	10,000	7,887	2,113	39%	20,000
Forder Lane House	663,890	331,945	314,307	17,638	47%	660,789
South Devon House	61,668	30,594	34,615	(4,021)	56%	60,310
Management	423,895	195,436	190,626	4,810	47%	425,607
Total Expenditure	1,417,202	712,419	700,756	11,663	49%	1,432,620
Operating Surplus excluding depreciation & finance costs (A)	838,720	417,772	475,401	57,629	57%	837,137
Depreciation						
Housing Properties	267,587	133,430	133,430	0	48%	280,193
Forder Lane House	34,283	17,142	17,142	(1)	50%	34,283
South Devon House	12,500	6,250	6,250	0	50%	12,500
Vehicle Depreciation	3,400	1,700	1,750	(50)	51%	3,400
Equipment depreciation	26,959	13,480	12,708	772	47%	26,959
Total Depreciation	344,729	172,001	171,280	721	48%	357,335
Amortised Grant	(60,030)	(30,296)	(30,520)	224		(60,593)
PPE/Investment Adjust		0		0		0
Fair Value Gain/loss				0		
Financial instruments adjust		-				
Operating Surplus including depreciation	554,021	276,067	334,641	58,127	62%	540,395
Surplus on disposal of assets	-	-		0		
Interest Payment & charges	521,564	260,782	254,187	6,595	49%	508,593
Interest Received	(500)	(250)	(951)	701	190%	(500)
Net Finance Costs (B)	521,064	260,532	253,236	7,296	49%	508,093
Surplus/(deficit)	32,957	15,535	81,405	(65,870)	439%	32,302
Interest Cover Calculation > 110% (A) divided by (B)	160.96%	160.35%	187.73%			164.76%
Surplus without sales	32,957	15,535	81,405	(65,870)	439%	32,302
Interest cover excluding sales	160.96%	160.35%	187.73%			164.76%

SOUTH DEVON RURAL HOUSING ASSOCIATION LTD
Author Claire Barnett

Board of Management

Agenda Item 1b

Financial and Standing Orders

FOR DECISION

Purpose

To approve amendments and discuss internal audit requirements

Report

Amendments to Financial and Standing Orders

The board approved the amendments at the July board, however it has since been identified that a couple of areas had not been updated.

On page 32 the date has been amended to July 2017 see Appendix 1.

On page 35 the cheque signatories have been corrected to reflect current post holders as per the banking mandates, see Appendix 2.

IT Strategy

This is referred to on page 29. This will be updated and circulated for review at January board.

Internal Audit

Page 30 refers to a plan of internal audit work. These will cover many aspects of the work carried out, these are not necessarily financial audits. Each year external audit will review a particular aspect of the business which may be a "hot topic" nationally and is outlined in the audit plan. The care home also has reviews carried out on many aspects of the business with various inspections are carried out including CQC inspections. One aspect of the business will be reviewed each financial year, subject to the availability of appropriate consultants with relevant expertise.

The following areas have been identified to be reviewed over the next 3 years:-

Maintenance and Asset Management
Marketing and PR

Recommendations

To approve the amendments to the financial regulations and standing orders.
To approve the internal audit plan.

SCHEDULE I - DELEGATIONS OF AUTHORITY

Revised Delegation of Authority (approved ~~September 20012~~ July 2017)

Budget Head	Designated Officer	Authorisation of invoice	Limits to authority to lodge orders
Repairs	Housing Assistant (all staff may place orders)	Designated Finance Assistant to limit of £2,000. Invoices above £2,000, and all orders lodged by the Housing Assistant, to be countersigned by Chief Executive/Finance Director or Operations Director to a limit of £10,000 or by Board Member authorised in Schedule II. Invoices over £10,000 to be signed by the Chief Executive and a Board Member authorised in schedule II.	Up to £500, any staff member may order a repair. Between £500 and £10,000, Chief Executive / Operations Directors counter-signature/ Finance Director required plus Designated Officer.
Service charges	Operations Director	}	Up to £500 Designated Officer Above £500, Chief Executive/ Finance Director or Operations Director counter-signature required plus Designated Officer.
FLH	Head of Care and Support	}	
Office supplies	}	Designated Finance Assistant of £2,000. Invoices above £2,000 to be countersigned by Chief Executive/Finance Director/Operations Director to a limit of £10,000 or a Board Member authorised in Schedule II. Invoices over £10,000 to be signed by the Chief Executive and a Board Member authorised in schedule II.	
Travel	} Finance Assistant		
Loan Interest	} Finance Assistant	}	
Training	} Finance Assistant	}	
Miscellaneous	}	}	

SCHEDULE II

LIST OF AUTHORISED SIGNATORIES

Cheque Signatories

The following are authorised cheque signatories for our accounts with CAF Bank.

Chairman	Red Hewett James Davis
Vice Chairman	Prana Simon joint James Davis

Chief Executive	Steven Prime
Finance Director	Claire Barnett
Operations Director	Francis Bourke
Finance Assistant	Linda Bellamy
Head of Care and Support	Bonnie Van Beek

Homes and Communities Agency Signatories

The following are authorised signatories for all Homes and Communities Agency scheme and grant submissions, including electronic submissions:

Board Members	James Davis Prana Simon
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Chief Executive	Steven Prime
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Rural Homes Limited (Acting as Agent for SDR)

Alan Fox

SOUTH DEVON RURAL HOUSING ASSOCIATION LTD

Agenda Item 1d

Authors Claire Barnett and Francis Bourke

Board of Management

Capital Programme (Components)

FOR DECISION

Purpose: To inform the Board of Management of progress on the capital programme for replacement components.

The table below shows the component replacements completed for 2017/18.

Components replaced in 17/18	Number	Cost £	Comments
Bramble Close Kitchens	8	£44,352	Funded from 16/17 carry forward May 17
Heating system 14 Church Park	1	£9,782	
Heating System 2 The Orchard	1	£4,361	
Heating System 3 The Orchard	1	£7,312	
Kitchen 31 Broomborough	1	£2,501	
Bathroom 2 Whiteley Avenue	1	£2,286	
Heating 1-4 Shinner's Dittisham	4	£17,993	
Boiler 3 Meadow Cottages	1	£2,685	
Kitchen 4 The Orchard	1	£5,396	
Heating 25, 26, 28 & 29 Broom Park	4	£14,228	
Kitchen 10 Church Park	1	£5,430	
Boiler 1 Spedding Cottages	1	£4,752	
Kitchen 20 Moor Road	1	£5,272	
Roof 53 Longfields	1	£7,900	
Total Spend to Date		£134,250	
Budget 17/18		£231,266	
Commitments		-	
Remaining budget		£97,016	

Recommendation

The Board are recommended to note the expenditure to date for 17/18.

SOUTH DEVON RURAL HOUSING ASSOCIATION LTD
Author Claire Barnett

Board of Management

Agenda Item 1e

Capital Programme Report

FOR DECISION

Purpose

To update the board on the capital programme progress and expenditure to date and available cash for future schemes.

Report

Capital Programme 17/18 to 18/19

Appendix 1 shows all capital spend for 2017/18, and the budgets for 17/18 and 18/19.

Appendix 2 shows a simple cashflow statement stating available cash once all the cash transactions for the financial year have been processed, which shows the position at the end of the next 2 financial years.

This shows that all the proposed schemes could be funded.

Recommendations

To note the capital expenditure and the cashflow for 17/18 and 18/19.

Capital Programme 16/17 to 18/19							Appendix 1 (1e)
	Scheme Budget £	Prior Years	Budget	Actual	Budget	Budget	Comments
		Spend	17/18	17/18	18/19	19/20	
		incl 16/17 £	£'000	£'000	£'000	£'000	
South Devon House works	10,000		16	3	10		Office refurbishment work including new windows budget increased by £10,000 at Oct board
IT Upgrade	50,000		30	39	10		Server Replacement - software licences were identified as being out of date and not genuine licences which cost £8,303
Other Fixed Assets replacements			10	7	5	10	New washing machines for Forder Lane and new electronic keyboard for entertainment
Components replaced			231	134	200	200	See separate board report
Partnership South West Fees			6		6	6	To enable SDR to be part of the HCA 2016-21 programme
Old Totnes Road	62,242	106	260	57			See Development report. Currently on site but full spend not yet committed. Sales planned 18/19.
Brimhay Redevelopment	356,436	551	89	56	1,337		Updated for new timescales and land transfer to RHL. Does not include land sale for "ROC" area
	- 1,000				-1,000		Sale of land and gift aid from RHL plus interest repayments
Morleigh	6,284	501	12	10			Retention to be paid
Wrangaton		1		2			
Old Sidmouth Road		1		1			
Brentor		1		3			Transfer but costs to be funded by other provider
Dennings		1					
Purchase of 3 Christina Park			267	197			Purchased from the Ellis family to enable them to move to the Laurels Marldon. Plus refurbish costs
Sale of 3 Christina Park			-295				Resale by end of March 2018
Purchase of The Laurels Marldon			360	360			Special Purchase for the Ellis family. Shared Ownership
Contributions towards the Laurels			-164	-164			Contribution from the Ellis family (£109,100) and SHDC (£55,000)
	483,961	1,162	821	705	568	216	

Cashflow Summary

Appendix 2 (1e)

	Income £'000	Expenditure £'000	Total £'000
Balances at 31/3/17	-	-	714
17/18 capital spend net of grant		590	
Components Budgeted expenditure		231	
Non cash depreciation	296		
Loan received/repayments	886	747	
Surplus 17/18	29		
Balances at 31/3/18	1,211	1,568	357
18/19 capital spend		1,368	
Components Budgeted expenditure		200	
Sale receipts and gift aid	1,000		
Non cash depreciation	255		
Loan received/repayments	760	760	
Surplus 18/19	33		
Sale of Old Totnes Road	400		
Balances at 31/3/19	2,448	2,328	477
19/20 capital spend		6	
Components Budgeted expenditure		210	
Sale receipts and gift aid	507		
Non cash depreciation	255		
Loan received/repayments	1,760	760	
Surplus 19/20	47		
Balances at 31/3/20	2,569	976	2,070
Loan money to reuse on social housing projects			1,820
Working Capital			250

SOUTH DEVON RURAL HOUSING ASSOCIATION LTD

Authors Steve Prime, Alan Fox

Board of Management

Agenda Item 2a/2b

Development Report

FOR DECISION

Purpose

To ensure the Association meets its regulatory and legal obligations, promotes continuous improvement and value for money. Updating members on progress and agreeing key areas for review.

Development Progress Report

Old Totnes Road

Contracts for retaining wall and works to slab level commenced 15th May. Work is progressing well. Contractor has agreed to build out the two houses on a joint venture basis.

Market Place, Wadebridge

Not able to proceed due to lawyers (Kindle) unable to find original lease await indemnity or reconstituted leases.

Management Agreement – SHIP Project

SHIP project Plymouth, has started on site and is due to complete in February 2017.

Current and Future Development Opportunities Report

(Development Services provided by Rural Homes Limited)

Project	Stage	Type	Units	Comments
Brentor	Talks with landowner	Exception site future SDR funding required c£800,000 -£1million	Up to 9 – Dartmoor NP – great site would hope SDR can fund	Meeting with Parish Council 10/7 – progressing community consultation
Kingsbridge	Early negotiations	Mixed – Future JV SDR/RHL + partner funding required £800,000-£1 million	23 – potential for RHL to apply to HCA build fund	Negotiations – SDR to purchase site if FA positive – planning issues
Colyton, East Devon	Negotiations	Exception site £800,000 - £1 million	8-10 – SDR funded	Ongoing – costing to bring to planning & FA. Site layout prepared for pre app.
Wrangaton	Negotiations	Mixed funding £1.5million	Up to 44 units potential partners RHL	Option to purchase being sought @ £450,000 – minor planning issues – now potential to purchase through Coop Pension fund
Other sites	Kingsbridge	The Mounts	10	Early negotiations Ongoing – planning issues
Development Services (RHL)	Talks	SWHS require further development services	various	RHL negotiating fees
East Devon DC	Various rural sites	Small rural sites	Variable	Met with EDDC as they are keen to work with SWHS and SDR on a number of stalled rural sites. Initial meeting went well.

Recommendation:-

Note the Development Report and the future development report from Rural Homes Limited

SOUTH DEVON RURAL HOUSING ASSOCIATION LTD

Board of Management

Agenda Item 2c

Brimhay Update

FOR DECISION

Purpose

To ensure the Association meets its regulatory and legal obligations, promotes continuous improvement and value for money. Updating members on progress of key projects and agreeing areas for review.

Brimhay Development Progress Report

At its meeting in July, the Board considered due diligence reports provided by Francis Clark regarding issues which could lead to tax liabilities for SDR, if works were started on Brimhay, which could be deemed to be 'enhancing' the value of the site. After debate and careful consideration the board opted to pursue option 2 set out in that report, subject to further legal input. The CEO met with Tozers lawyers and representatives from Francis Clark, for round table discussions on the most advantageous way forward. At that time it was agreed that to avoid any ambiguity on the land transfer, the whole of Brimhay should be transferred to Rural Homes Limited on a conditional contract. However, it will be necessary for SDR to retain the area designated ROC, if SDR is to make a bid for HCA Funding for this scheme. (it is a requirement of funding that SDR own the land and have planning permission before a bid can be made) SDR can contract with RHL to put in the infrastructure necessary for the development. Given there are 32 approved units it follows that SDR contribute 8/32nds to infrastructure costs (ROC) and 12/32nds for the affordable (SHIRE) apartments, the remaining infrastructure costs covered by the construction of the 12 market homes.

It was agreed that revised valuations would be required on the land:

1. Valuation as is with the current planning permission in place.
2. Valuation of the land as is without the benefit of planning permission.

Whilst the market value has been established any developer would seek to negotiate. In discussions with other interested parties, they have indicated they feel the value is too high with the current commitments in the Section 106. When SDR sought HCA approval to sell the land, the approval stipulated not less than £1,000,000. The board can of course continue with the sale of the land at Brimhay for £1,000,000 as previously agreed.

SDR will satisfy both HCA and the Financial Conduct Authority expectations (charity law) that the land will be transferred at market value.

Adam Kefford pointed out that during his research into RP development subsidiaries, most parent companies had made investment into the subsidiary with the purchase of shares, in some cases it was a substantial investment. So far SDR has invested £1 that being the only share issued. It is proposed that SDR purchase a further 49,999 shares at £1 to bring the total investment to £50,000. SDR is required to authorise the company in writing to enable them to issue additional shares.

In respect of the transfer of land to RHL, Tozers have produced Heads of Terms and a draft conditional contract.

The Contract(s) will ensure:

- The correct value of the transfer of land;
- Commit RHL to build the affordable element of the development as project managers;
- Commit RHL to develop the open market element;
- Commit RHL to delivering all planning obligations, Section 106 obligations (relating to the development);

Whilst these proposals are considerably different to those envisaged when SDR first obtained advice on the Brimhay redevelopment, they are based on the advice received during further due diligence. In essence the cost of the whole project remains roughly the same as presented to the board in January, (although there is still upward pressure until contracts are signed) but the financial and delivery responsibilities have changed. Inevitably the risk profile has changed somewhat for both organisations and this has been reflected in revised risk maps shown in the schedule of appendices.

The scheme overall will still show a deficit of around £600,000 which will be the net cost of developing such a high percentage (overall) of affordable homes. The recycled CAF Loan of around £1.7 million will be available to fund the development of further housing projects.

There is however, an opportunity for SDR to make a bid for grant under the new funding arrangements 2016 - 2021 with the HCA under the Continuous Market Engagement (CME) element of funding, through our membership of Partnership South West (PSW). This opportunity was not available previously as SDR would have been expected to fund the project through the market and land sales. There is now some doubt as to SHDC's commitment to provide the original offer of capital support due to a change in personnel and the timescale since the first offer.

To enable SDR to bid for HCA funding we would have to own the land and have current planning permission to qualify for bidding. So SDR would need to retain the land the affordable housing is planned for and not sell to RHL. The same scenario would apply to the area designated ROC for the planned flats for learning disabilities as SDR has an opportunity to bid for grant on that development as well. I believe we will be able to bid for grant at a rate which will make the projects viable. As SDR has committed to managing the Eco Management Plan as part of its Sec106 commitment, it follows the boundaries affected by that should be retained by SDR. (The cost of this will be picked up in covenants on the open market sales)

With this scenario RHL would buy the land as planned for market sales and the road, access and other land not allocated to the affordable flats and ROC building, ensuring that they 'enhance' the value of the site and not SDR.. RHL in that context would be required by SDR to put in the infrastructure for the affordable flats and ROC development for SDR at a ratio of 20/32nds.

In respect of the current position on Brimhay, planners have agreed the amendments to the Sec 106 and have advised they will issue the planning letter. As usual this has not been acted upon by planners and further delays ensue. However, final preparations have been made to facilitate the demolition of Bungalows and site preparation. The signing of that contract is immanent and we hope to start in the next 2 or 3 weeks. Once the planning letter has been issued SDR will be at risk via a further judicial review challenge to SHDC from objectors for 6 weeks. Our lawyers accept this is possible but unlikely of success. The demolition works are scheduled for about 8 weeks so signing of final contracts with Coydes will take place 6 weeks after the issue of the planning permission.

The following supporting documents have been provided in the schedule of Appendices below.

Schedule of Appendices

1. RHL Cash flow
2. RHL QS Report (revised)
3. RHL Risk Map

For SDR the following reports have been produced

4. Updated site valuation report
5. HOT's Tozers
6. Draft Contract SDR – RHL
7. Draft Transfer of Land (Registration) – shows covenants
8. Transfer Plan
9. Tozers update letter on charity law and on further SDR investment in RHL
10. SDR Project cash flow
11. SDR Brimhay Risk Map

Recommendations

The Board are recommended to approve;

- a. Heads of Terms with RHL
- b. Conditional Contract between SDR and RHL and Transfer Plan
- c. Authorise Rural Homes Limited to issue a further 49,999 £1 shares
- d. Agree SDR purchase £49,999 share capital in Rural Homes Limited
- e. If HCA bids are approved to proceed on that basis, subject to positive Financial Appraisals on both the affordable flats and ROC building being circulated to Board Members.

TENDER REPORT

On

BRIMHAY, DARTINGTON

For

**SOUTH DEVON RURAL
HOUSING ASSOCIATION LIMITED**

AND

RURAL HOMES LIMITED

**AUGUST 2017
VERSION 2**

RANDALL SIMMONDS

**Devonshire House
28 Devon Square
Newton Abbot
Devon TQ12 2HH**

www.randallsimmonds.co.uk

TENDER REPORT BRIMHAY, DARTINGTON

Introduction

This report provides an overview of the Construction Contract(s) proposed between South Devon Rural Housing (SDR) and Rural Homes Limited ('RHL') and Coyde Construction Limited ('CCL') for the demolition of the some of the existing buildings and the construction of 12 Affordable Apartments and 3 Houses for Sale with associated external works and infrastructure at Brimhay, Dartington.

Tender Received (2016)

The original Tenders were issued on 3rd December 2015 to five contractors

Classic Builders (Plymouth)
Pemberton Homes (Exeter)
Coyde Construction (Totnes)
Henry W Pollard & Sons (Plymouth)
Stewart S Smith Builders (Paignton)

During the tender process two tenderers withdrew, being Classic and Pollard, both citing insufficient capacity/information to complete their tenders.

The tenders received from the remaining tenderers on 12th February 2016 were:

Tenders (Feb 2016)	Apartments	Houses	Total
Coyde	1,518,308	1,809,390	3,327,698
Pemberton	1,530,816	1,920,857	3,451,673
SES	1,836,800		

Based on these tenders Coyde were selected as the preferred tenderer. Subsequently Pemberton Homes went into administration in early 2017.

In comparison with our Cost Estimate of October 2015, the lowest tender price was over 15% higher. This is partly explained by market conditions, over the 4th Quarter 2015 to 1st Quarter 2016 the Building Cost Information Service (BCIS) recorded a 4.2% jump in tender prices. The remaining difference comprises the higher preliminaries and OH&P allowances included by the tenderers for separate phases.

Tender Price Update

Following the interruption to the project awaiting a further planning decision, Coyde have been asked to update their tender pricing to complete the project based on a first phase of the 12 apartments and 3 houses, following an Enabling Works package, comprising demolition and fees.

A comparison of the Coyde's updated price received on 5th July 2017 and their original 2016 tender price, excluding demolition and fees is provided overleaf.

Overall the inflationary uplift for the period 1Q2016 to 2Q2017 is 5.7%, which compares with price inflation of 7% recorded in the Tender Price Index published by BCIS over the same period.

TENDER REPORT BRIMHAY, DARTINGTON

Phase 1 (Apartments and 3 houses)

Comparison	Tender 2016 Total	Update 2017 Total	Variance
Substructure	131,900	125,400	-5%
Superstructure	980,715	1,003,672	2%
External Works	310,225	415,250	34%
Preliminaries	141,710	181,310	28%
OH&P	164,251	173,861	6%
Other	13,400	12,980	-3%
Total	1,742,201	1,912,473	9.8%

Notes:

1. The above excludes demolition and fees which are recorded separately below.
2. The allocation of the Phase 1 total between the open market and affordable units is to be determined by SDR / RHL.
3. Coyde have been asked to review target savings of £70,000 from above total by developing the design proposals for the drainage.

Phase 1 - Enabling Works

It is proposed to place an initial order for a Phase 1 - Enabling Works package with Coyde. Below we have compared the proposed order value of £123,178 with the amount included in the Coyde tender of February 2016.

Enabling Works	Tender(2016)	Revised (2017)
Demolition (Phase 1)	58,000	59,080
Preliminaries	20,000	18,746
Hoarding/Protection	10,000	13,055
Provisional Sums		
Asbestos	2,000	11,190
Service Diversion	-	10,000
OH&P	8,800	11,207
Total	98,800	123,278

Overall the costs for the demolition and management costs are comparable, taking into account the retained allowances for phase 2.

The actual cost of the Asbestos Removal is based on the recently provided reports; this is higher than the provisional sum contained in the original tender. The cost of the service diversion was excluded by Coyde from their original tender.

We would recommend that a further £20k provisional allowance should be added to this amount to include the provision of the 10nr additional car parking spaces.

Overall this appears to represent reasonable value for money for South Devon Rural/Rural Homes Limited.

TENDER REPORT BRIMHAY, DARTINGTON

Design & Build Fees

It is proposed to place an initial order for the Design & Build fees with Coyde to allow the drawings to be developed to a point where the building works could commence on site in the autumn 2017.

Below we have compared the proposed order value of £57,145 (to be adjusted) with the amount included in the Coyde tender of February 2016. This is additional to the proposed Phase 1 contract amount.

Fees	Tender(2016)	Revised (2017)
Architect	66,600	19,750
Engineer	inc	19,200
Timber Frame	inc	7,000
Section Agreement	tbc	6,000
OH&P	6,660	5,195
Total	73,260	57,145

This amount includes any payments in connection with the Sectional Agreements etc.

Overall this expenditure appears to represent reasonable value for money for South Devon Rural and Rural Homes.

Contract Documents

The fixed price design and build contract includes the following contract documentation:-

Build Contract:	A JCT 2011 Design & Build Contract.
Employer's Requirements:	A project specific set of Employer's Requirements,
Contract Drawings:	The drawings included in the Contract are those submitted for planning and as prepared by Ashley Sodergren for the houses.
Contractor's Proposals:	The Contractor has confirmed confirm compliance with the Employer's Requirements and no divergences.
Contract Sum Analysis:	With interim monthly payments.

Contract Sum

The proposed Phase 1 Contract Value is £1,912,473, excluding VAT and the separate order for Fees and Enabling Works. This excludes any Client Contingency but includes £6000 provisional sums for quartz worktops and wood-burners to the three houses.

All on costs with the exception of legal fees, Employers Agent and CDM fees are covered by the contract sum proposed.

It is proposed to provide PV's to the houses only. The design for the apartments has been checked for compliance with the HCA design and quality standards.

The Phase 2 contracts for the remaining houses will be subject to inflationary uplift and confirmation of building costs

TENDER REPORT BRIMHAY, DARTINGTON

Payment Security and Retention

Payment security in the event of contractor insolvency is addressed with:-

- 10% NHBC contractor insolvency cover for the apartment building and externals.
- Interim payments on a monthly basis;
- No payments for materials on site;

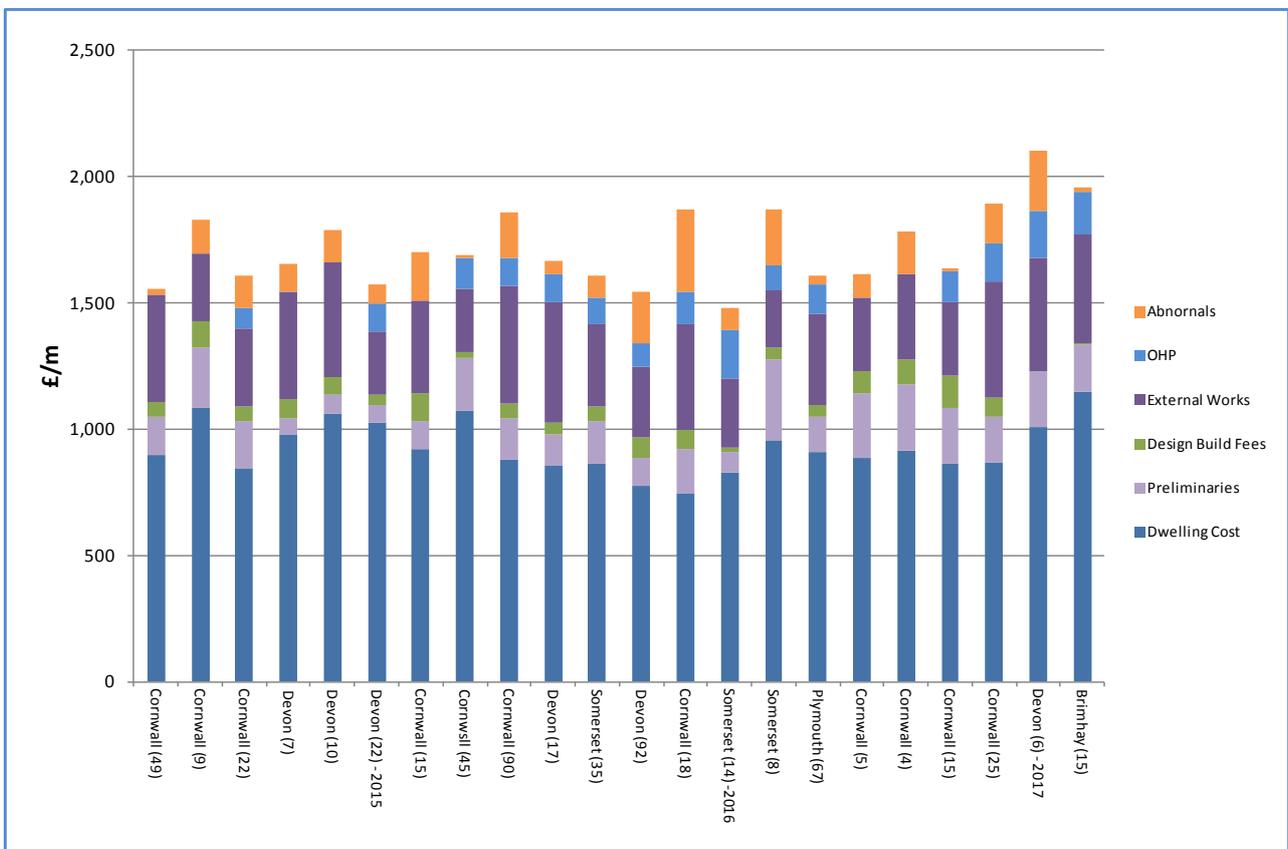
At this stage it is not proposed to have a separate performance bond for the construction of the three number houses, given that this is a relatively low value contract, which is being completed at the same time as the apartments. The insolvency cover on the apartments should be sufficient to cover the additional cost of employing a contractor to complete the Phase 1 scheme.

The level of retention for these Contracts will be 5% reducing to 2.5% at Practical Completion as set out in the Standard Form of Building Contract.

The contract programme dates are to be confirmed.

Value for Money

The combined Phase 1 contract amount, equates to a rate of £1,957/m² based on the total gross internal floor area, this is relatively high because it includes the roads and drainage associated with the entire development. It is also high because the £/m² cost for apartments is generally higher than houses, a brief comparison with recently tendered housing schemes is provided below:



**TENDER REPORT
BRIMHAY, DARTINGTON**

Recommendation

We would recommend that SDR and RHL enter into initial appointments with Coyde, who are a local contractor with considerable experience in delivering this type of scheme.

Ben Randall
For Randall Simmonds LLP
5th October 2017

Risk Assessment

Agenda Item 2c RHL Risk Map Appendix 3

Category	Date Last Reviewed	SDR Reviewer
Development Risk Map – Brimhay Redevelopment	October 2017	S Prime Alan Fox

No.	Risk	Impact			Probability	Mitigation Actions / Controls	Effectiveness and further action	Residual Risk	Person responsible
		Financial	Performance	Operations					
1	Lower than expected returns on market sales	M	L	L	M	Robust financial appraisals of new business opportunities Financially strong Not over ambitious Stress resting shows limits of risk Exit strategy	Business plan and financials examined by external independent consultants. (Francis Clarke) Regular valuations	M	SP AF
2	Failure to win planned business on expected terms	H	M	H	M	Modest development programme Exit strategy for leased projects (ROC)	For rental stock good evidence of sustainable need Exit strategy for leased developments	H	SP AF
3	Abortive costs higher than planned	H	M	L	M	Board limits on pre development costs Pragmatic approach that bigger projects require larger investment	Maintain limits on exposure	M	SP AF
4	Inadequate performance management	M	H	H	L	Staff and consultants have good track record of delivery	Regular detailed reports to board	M	SP AF
5	Abnormals on site	H	M	L	L	All searches and investigations complete prior to contract Design and Build contracts	Examine all risk prior to awarding contracts Contracts broken down into 3	M	SP AF
6	Contractor performance	H	M	M	M	D & B contract Performance bond Split redevelopment into separate contracts	Separate contracts limit risk in each phase Phase 1 delivers affordable first	M	SP AF
7	Adequate funds to complete project	H	M	M	M	Robust financial control	Stress testing to ascertain the amount SDR willing/needs to subsidise scheme Further investment by SDR in RHL	M	AF SP
8	Planning not obtained	H	M	M	M	Pre planning meetings with planners Local consultation did not throw up major objections Objections likely to come once planning notices are posted	Revise planning application Seek financial support from HCA or and SHDC	M	SP AF
9	Market sales do not meet expectations or timescale for return	H	M	L	M	Consider market rent for unsold units Loan agreement in place for 10 years Lease/transfer to SDR	Part repayment of loan to reduce effect on I&E	M	SP AF
10	Competition from other local market developments	H	M	M	M	Local experience is that developers house prices will be higher than those used by SDR in financial model	Ensure SDR keeps in touch with market trends and prices Marketing strategy	M	SP AF

Alan

Further to email correspondence and discussions, advice as requested. As the advice follows site visit and market appraisals, this email format may be relied upon by Rural Homes Ltd/South Devon Rural Housing Association Ltd subject to confirmation within a valuation assessment report, which will contain expanded detail.

Relevant Issues

Appraisal of sales values has taken into account current market conditions, together with trends identified and prices achieved during 2016 as adjusted by the Nationwide house price change index. It has also had regard to the forthcoming Brexit negotiations and post general election period.

Appraisal of rental values has been on the basis of single unfurnished lets on 6 month assured shorthold tenancies. These include service charges where relevant.

Appraisal of site value has incorporated identified abnormal construction costs and S106/Unilateral Undertaking contributions, together with contingency sums for abnormal construction/servicing works and other issues. It has also taken into account the higher percentage of affordable/occupancy restricted housing.

Sales & Rental Values

The total scheme will provide the following accommodation:

Main Scheme

This element of the total scheme will comprise the following unit types with speculative sale (5th column) and 100% monthly market rental (6th column) values as stated:

1 bed flat	51.7 sq.m.	Type F1	12 units	£170,000	£550 pcm
2 bed (4P) s/det hse	76 sq.m.	Type A1	2 units	£245,000	£750 pcm
2 bed (5P) s/det hse	80 sq.m.	Type A2	2 units	£250,000	£775 pcm
3 bed (5P) s/det hse	90 sq.m.	Type B2	4 units	£290,000	£875 pcm
3 bed (5P) det hse	90 sq.m.	Type B2	2 units	£315,000	£925 pcm
3 bed (5P) det hse	94.5 sq.m.	Type B1	3 units	£325,000	£950 pcm
4 bed (6P) det hse	120 sq.m.	Type D1	1 unit	£395,000	£1,200 pcm
Total				£5,610,000	

The 1 bed flat has an averaged floor area. The 3 bed house types benefit from en-suite bathrooms and the 4 bed house type from en-suite bathroom and single garage. Please note: the 4th column total is on a 100% speculative basis.

Learning Difficulties

This element of the total scheme will comprise the following unit types with 100% speculative sale (5th column) and 100% monthly market rental (6th column) values as stated:

GF	2 bed flat	77 sq.m.	1 unit	£215,000	£700 pcm
	3 bed flat	106 sq.m.	1 unit	£265,000	£950 pcm
FF/SF	1 bed flat	54 sq.m.	2 units	£175,000	£575 pcm
	2 bed flat	77 sq.m.	2 units	£215,000	£700 pcm
	2 bed flat	84 sq.m.	2 units	£225,000	£750 pcm

The schedules assume an appropriate level of car parking provision.

Site Value

Subject to the above, we are of the opinion that the site for the proposed scheme as existing and with planning consent has a value in the region of **£1,100,000**.

Existing Scheme

Brimhay currently comprises 18 x 1 bed terraced/semi-detached bungalows with associated communal grounds. The majority of the units have been vacated and are in poor condition. A typical 1 bed bungalow comprises 42.38 sq.m. as entrance hall, bathroom, kitchen, living room and bedroom. The scheme would require significant refurbishment, also incorporating replacement newbuild.

Site Valuation

Agenda item 2c Appendix 4

Subject to a comprehensive survey and schedule of dilapidations, we are of the opinion that Brimhay as existing and with no planning consent in place for an alternative scheme has a value in the region of **£550,000**.

I trust the above will be of use to you. Please contact me if there are any immediate queries.

Regards

Tim Gilbert

BSc (Hons) MRICS Registered Valuer

Land and Planning

Connells

8/9 South Street, Exeter, Devon, EX1 1DZ

Telephone: 01392 413322

E-mail: exeterland@connells.co.uk

Website: www.connells.co.uk



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DRAFT HEADS OF TERMS

PROPERTY – Land at Brimhay, Dartington, Totnes, Devon TQ9 6HX

PROPOSAL – Sale of the freehold interest with vacant possession at open market value for development of the Property at Brimhay with 12 affordable dwellings, 8 dwellings for people with learning disabilities and 12 open market dwellings in accordance with the planning consent reference 14/0142/15/F and all associated infrastructure as set out in the transfer plan.

SELLER- South Devon Rural Housing Association (SDR)

BUYER – Rural Homes Limited (RHL)

STRUCTURE :

- SDR enters a Contract with RHL for sale of the land on which the open market units will be constructed and other land as shown in the transfer plan at market value with a simultaneous completion date. The purchase price of £1.1m is payable on a deferred payment basis. The arrangement is that 25% of the price will be payable when the 3rd, 6th, 9th and 12th open market units are respectively sold.
- Simultaneously with the above, RHL grants an Option to SDR allowing it to buy the Property back from RHL if RHL becomes insolvent before it repays the purchase price above .
- In order to fund the project SDR has entered into a Loan Facility with RHL to lend to RHL £1.2 million which shall be repayable by 2 December 2021. The Loan Facility is interest bearing and may be secured by a legal charge over the land if desired. The purpose of the Loan Facility is for land development projects.

Dated:

CONTENTS

CLAUSE

1.	Interpretation	1
2.	Sale and purchase	3
3.	Conditions	3
4.	Risk and insurance.....	3
5.	Deposit	4
6.	Deducing title	4
7.	Vacant possession.....	5
8.	Title guarantee	5
9.	Matters affecting the Property	5
10.	Transfer	6
11.	option.....	6
12.	VAT.....	6
13.	Completion	6
14.	Buyer's acknowledgement of condition.....	7
15.	Entire agreement.....	7
16.	Joint and several liability.....	7
17.	Notices.....	7
18.	Rights of third parties	9
19.	Governing law and jurisdiction	9

SCHEDULE

THIS CONTRACT is dated

2017

PARTIES

- (1) SOUTH DEVON RURAL HOUSING ASSOCIATION which is registered under the Co-operative and Community Benefit Societies Act 2014 under number IP14949R and with the Homes and Communities Agency under number LH0920 and whose registered office is at South Devon House Babbage Road Totnes Devon TQ9 5JA (**Seller**).
- (2) RURAL HOMES LIMITED (Company Registration number 07365262) incorporated and registered in England and Wales whose registered office is at South Devon House Babbage Road Totnes Devon TQ9 5JA (**Buyer**).

AGREED TERMS

1. INTERPRETATION

1.1 The definitions in this clause apply in this contract.

Base Rate: the base rate from time to time of Lloyds Bank PLC.

Buyer's Conveyancer: [$\langle \rangle$]

Completion Date: [$\langle \rangle$]

Contract Rate: 3% per annum above the Base Rate.

Deposit: [$\langle \rangle$ thousand pounds (£ $\langle \rangle$ 000)] (exclusive of VAT).

Open Market Dwellings: the 12 dwellings to be constructed on the Property intended to be sold on the open market in accordance with the Planning Permission.

Part 1 Conditions: the conditions in Part 1 of the Standard Commercial Property Conditions (Second Edition) and **Condition** means any one of them.

Part 2 Conditions: the conditions in Part 2 of the Standard Commercial Property Conditions (Second Edition) and **Condition** means any one of them.

Plan: the plan attached to this contract marked `[$\langle \rangle$].`

Planning Agreement: the agreement made between the Seller and South Hams District Council pursuant to Section 106 of the Town and Country Planning act 1990 and dated 7 December 2015.

Planning Permission: the planning permission granted for the development of the Property dated 9 December 2015 under reference number 14/0142/15/F.

Property: the freehold property at Brimhay Dartington Totnes Devon shown edged red on the Plan and which is part of the land registered at HM Land Registry with title absolute under title numbers DN495153 and DN95240 together with the whole of the land registered with title absolute under Title Number DN658281 .

Purchase Price: One Million One Hundred Thousand Pounds (£1,100,000.00) (exclusive of VAT)] payable in the following stages :-

£275,000.00 shall be payable within 5 working days of the completion of the sale of 3 Open Market Dwellings;

£275,000.00 shall be payable within 5 working days of the completion of the sale of 6 Open Market Dwellings;

£275,000.00 shall be payable within 5 working days of the completion of the sale of 9 Open Market Dwellings;

£275,000.00 shall be payable within 5 working days of the completion of the sale of 12 Open Market Dwellings;

Seller's Conveyancer: Tozers solicitors of Broadwalk House Southernhay West Exeter EX1 1UA DX 8322 Exeter Fax number: 01392 207019 Reference: SB/S02217-[46].

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement and any additional replacement tax.

- 1.2 The rules of interpretation in this clause apply in this contract.
- 1.3 A **person** includes a corporate or unincorporated body.
- 1.4 Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.5 A reference to laws in general is to all local, national and directly applicable supra-national laws in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any sub-ordinate laws for the time being in force made under them and all orders, notices, codes of practice and guidance made under them.
- 1.6 **Writing** or **written** includes faxes but not e-mail.
- 1.7 Except where a contrary intention appears, a reference to a clause or Schedule is a reference to a clause of or Schedule to this contract.
- 1.8 Clause and Schedule headings do not affect the interpretation of this contract.

2. SALE AND PURCHASE

- 2.1 The Seller will sell and the Buyer will buy the Property for the Purchase Price on the terms of this contract.
- 2.2 The Buyer has agreed to develop the Property in accordance with the Planning Permission and the Planning Agreement to include the construction of the Open Market Dwellings as well as the necessary infrastructure including the estate roads and sewers to adoptable standards.
- 2.3 The Buyer cannot require the Seller to:
- (a) transfer the Property or any part of it to any person other than the Buyer; or
 - (b) transfer the Property in more than one parcel or by more than one transfer; or
 - (c) apportion the Purchase Price between different parts of the Property.

3. CONDITIONS

- 3.1 The Part 1 Conditions are incorporated in this contract so far as they:
- (a) apply to a sale by private treaty;
 - (b) relate to freehold property;
 - (c) are not inconsistent with the other clauses in this contract; and
 - (d) have not been modified or excluded by any of the other clauses in this contract.
- 3.2 The Part 2 Conditions are not incorporated into this contract.
- 3.3 Condition 1.1.4(a) does not apply to this contract.
- 3.4 Condition 1.1.1(e) is amended so that reference to the contract rate in Condition 1.1.1(e) refers instead to the Contract Rate as defined in this contract.

4. RISK AND INSURANCE

- 4.1 With effect from exchange of this contract, the Property is at the Buyer's risk and the Seller is under no obligation to the Buyer to insure the Property.
- 4.2 No damage to or destruction of the Property nor any deterioration in its condition, however caused, will entitle the Buyer either to any reduction of the Purchase Price or to refuse to complete or to delay completion.

4.3 Conditions 7.1.2, 7.1.3 and 7.1.4(b) do not apply to this contract.

5. DEPOSIT

5.1 On the date of this contract, the Buyer will pay the Deposit to the Seller's Conveyancer as stakeholder on terms that on completion the Deposit is paid to the Seller with accrued interest.

5.2 The Deposit must be paid by a method that gives immediately available funds.

5.3 Conditions 2.2.1 and 2.2.2 do not apply to this contract.

5.4 The provisions of clause 5.5, clause 5.6 clause 5.7 and clause 5.8 (inclusive) will only apply if:

- (a) the Deposit is less than 10% of the Purchase Price; or
- (b) no Deposit is payable on the date of this contract.

5.5 In this clause, the expression **Deposit Balance** means:

- (a) (where the Deposit is less than 10% of the Purchase Price) the sum calculated by deducting the Deposit from 10% of the Purchase Price; or
- (b) (where no Deposit is payable on the date of this contract) a sum equal to 10% of the Purchase Price.

5.6 If completion does not take place on the Completion Date due to the default of the Buyer, the Buyer will immediately pay to the Seller's Conveyancer the Deposit Balance (together with interest on it at the Contract Rate for the period from and including the Completion Date to and including the date of actual payment) by a method that gives immediately available funds.

5.7 After the Deposit Balance has been paid pursuant to clause 5.6, it will be treated as forming part of the Deposit for all purposes of this contract.

5.8 The provisions of clause 5.5, clause 5.6 and clause 5.7 (inclusive) are without prejudice to any other rights or remedies of the Seller in relation to any delay in completion.

6. DEDUCING TITLE

6.1 The Seller's title to the Property has been deduced to the Buyer's Conveyancer before the date of this contract.

6.2 The Buyer is deemed to have full knowledge of the title and is not entitled to raise any objection, enquiry or requisition in relation to it.

6.3 Conditions 6.1, 6.2, 6.3.1 and 6.4.2 do not apply to this contract.

7. VACANT POSSESSION

7.1 The Property will be sold with vacant possession on completion.

8. TITLE GUARANTEE

8.1 The Seller will transfer the Property with full title guarantee.

8.2 The implied covenants for title are modified so that:

- (a) the covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to costs arising from the Buyer's failure to:
 - (i) make proper searches; or
 - (ii) raise requisitions on title or on the results of the Buyer's searches before the date of this contract (or by completion in the case of searches referred to in clause 9.1; and
- (b) the covenant set out in section 3 of the Law of Property (Miscellaneous Provisions) Act 1994 will extend only to charges or incumbrances created by the Seller.

8.3 Condition 6.6.2 does not apply to this contract.

9. MATTERS AFFECTING THE PROPERTY

9.1 The Seller will sell the Property free from incumbrances other than:

- (a) any matters contained or referred to in the entries or records made in registers maintained by HM Land Registry as [] at [] under title numbers DN495153, DN658281 and DN95240 ;
- (b) any matters discoverable by inspection of the Property before the date of this contract;
- (c) any matters which the Seller does not and could not reasonably know about;
- (d) any matters disclosed or which would have been disclosed by the searches and enquiries which a prudent buyer would have made before entering into this contract;
- (e) public requirements;

- (f) any matters which are unregistered interests which override registered dispositions under Schedule 3 to the Land Registration Act 2002;
- (g) any matters disclosed in the documents listed in the Schedule.

9.2 Conditions 3.1.1, 3.1.2, 3.1.3 and 3.3 do not apply to this contract.

9.3 The Buyer is deemed to have full knowledge of the matters referred to in clause 9.1 and will not raise any enquiry, objection, requisition or claim in respect of any of them.

10. TRANSFER

10.1 The Transfer to the Buyer will be in the agreed form initialled by the parties and annexed to this contract.

10.2 The Buyer and the Seller will execute the transfer in duplicate.

11. OPTION

The Seller and the Buyer shall enter into the form of Option annexed to this contract on the Completion Date.

12. VAT

12.1 Each amount stated to be payable by the Buyer to the Seller under or pursuant to this contract is exclusive of VAT (if any).

12.2 The Seller has agreed not to charge VAT on the Purchase Price

13. COMPLETION

13.1 Completion will take place on the Completion Date.

13.2 Conditions 8.1.2 and 8.1.3 are varied by the deletion of 2.00 pm as the stipulated time and the substitution of 1.00 pm.

13.3 Condition 1.1.3(b) is amended to read: "in the case of the seller, even though a mortgage remains secured on the property, if the amount to be paid on completion enables the property to be transferred freed of all mortgages, (except those to which the sale is expressly subject) or if the seller produces reasonable evidence that this is the case."

13.4 Condition 8.4 is amended to add, "(d) any other sum which the parties agree under the terms of the contract should be paid or allowed on completion".

13.5 Condition 8.7 is amended to read: "The buyer is to pay the money due on completion by a method that gives immediately available funds and, if appropriate, by an unconditional release of a deposit held by a stakeholder".

14. BUYER'S ACKNOWLEDGEMENT OF CONDITION

The Buyer acknowledges that before the date of this contract, the Seller has given the Buyer and others authorised by the Buyer, permission and the opportunity to inspect, survey and carry out investigations as to the condition of the Property. The Buyer has formed the Buyer's own view as to the condition of the Property and the suitability of the Property for the Buyer's purposes.

15. ENTIRE AGREEMENT

15.1 This contract constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between them relating to the subject matter of this contract.

15.2 The Buyer acknowledges and agrees that in entering into this contract, the Buyer does not rely on and shall have no remedy in respect of any statement, representation, warranty, collateral agreement or other assurance (whether made negligently or innocently) of any person (whether party to this contract or not) other than as expressly set out in this contract or in any written replies which the Seller's Conveyancer has given to any written enquiries raised by the Buyer's Conveyancer and in replies to CPSE before the date of this contract. Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.

15.3 Condition 9.1.1 is varied to read, "If any plan or statement in the contract, or in written replies which the seller's conveyancer has given to any written enquiry raised by the buyer's conveyancer before the date of the contract, is or was misleading or inaccurate due to any error or omission, the remedies available are as follows."

16. JOINT AND SEVERAL LIABILITY

Where the Buyer is more than one person, the Seller may release or compromise the liability of any of those persons under this contract or grant time or other indulgence without affecting the liability of any other of them.

17. NOTICES

17.1 Any notice given under this contract must be in writing and signed by or on behalf of the party giving it.

- 17.2 Any notice or document to be given or delivered under this contract must be given by delivering it personally or sending it by pre-paid first class post, or recorded delivery, or fax to the address and for the attention of the relevant party as follows:
- (a) to the Seller at:
South Devon House Babbage Road Totnes Devon TQ9 6HX

Fax No: [<>]

marked for the attention of: STEVE PRIME – Chief Executive

or at the Seller's Conveyancer, quoting the reference SB/S2217[<>];
 - (b) to the Buyer at: South Devon House Babbage Road Totnes Devon TQ9 6HX

Fax No: [<>]

marked for the attention of: [<>]

or at the Buyer's Conveyancer, quoting the reference [<>].
- 17.3 Giving or delivering a notice or a document to a party's conveyancer has the same effect as giving or delivering it to that party.
- 17.4 Any such notice or document will be deemed to have been received:
- (a) if delivered personally, at the time of delivery provided that if delivery occurs before 9.00 am on a working day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a working day, or on a day which is not a working day, the notice will be deemed to have been received at 9.00 am on the next working day.
 - (b) in the case of pre-paid first class or recorded delivery post, at 9.00 am on the second working day after posting; and
 - (c) in the case of fax, at the time of transmission.
- 17.5 In proving delivery, it will be sufficient to prove that delivery was made or that the envelope containing the notice or document was properly addressed and posted as a prepaid first class, or recorded delivery letter or registered letter or that the fax message was properly addressed and transmitted, as the case may be.
- 17.6 A notice or document delivered under this contract shall not be validly given or delivered if sent by e-mail.
- 17.7 Condition 1.3 does not apply to this contract.

18. RIGHTS OF THIRD PARTIES

A person who is not a party to this contract will not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.

19. GOVERNING LAW AND JURISDICTION

19.1 This contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

19.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this contract or its subject matter or formation (including non-contractual disputes or claims).

19.3 Each party irrevocably consents to any process in any proceedings under *clause 19.2* being served on it in accordance with the provisions of this contract relating to service of notices. Nothing contained in this contract will affect the right to serve process in any other manner permitted by law.

This contract has been entered into on the date stated at the beginning of it.

Annex 1

The Transfer

Annex 2

The Option

Signed by for and on behalf of SOUTH
DEVON RURAL HOUSING
ASSOCIATION

.....

Signed for and on behalf of RURAL
HOMES LIMITED

.....

Land Registry

Transfer of part of registered title(s)

TP1

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Leave blank if not yet registered.

When application for registration is made these title number(s) should be entered in panel 2 of Form AP1.

Insert address, including postcode (if any), or other description of the property transferred. Any physical exclusions, such as mines and minerals, should be defined.

Place 'X' in the appropriate box and complete the statement.

For example 'edged red'.

For example 'edged and numbered 1 in blue'.

Any plan lodged must be signed by the transferor.

Give full name(s).

Complete as appropriate where the transferor is a company.

Give full name(s).

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

1	Title number(s) out of which the property is transferred: DN495153, DN658281and DN95240
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:
3	Property: Land at Brimhay, Dartington, Totnes, Devon TQ9 6HX The property is identified: <input checked="" type="checkbox"/> on the attached plan and shown edged red <input type="checkbox"/> on the title plan(s) of the above titles and shown:
4	Date:
5	Transferor: SOUTH DEVON RURAL HOUSING ASSOCIATION <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: IP14949R <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in England and Wales including any prefix:
6	Transferee for entry in the register: RURAL HOMES LIMITED <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: 07365262 <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in England and Wales including any prefix:

Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 12.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

Complete as necessary.

7	Transferee's intended address(es) for service for entry in the register: South Devon House, Babbage Way, Totnes, Devon TQ9 5JA
8	The transferor transfers the property to the transferee
9	Consideration <input checked="" type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures): one million one hundred thousand pounds Pounds (£1,100,000.00) <input type="checkbox"/> The transfer is not for money or anything that has a monetary value <input type="checkbox"/> Insert other receipt as appropriate:
10	The transferor transfers with <input checked="" type="checkbox"/> full title guarantee <input type="checkbox"/> limited title guarantee 1. For the purpose of Section 6(2)(a) of the Law of Property (Miscellaneous Provisions) Act 1994 ("the Act") all matters now recorded in registers open to public inspection (including without limitation the registered of the Land Registry) and evidence or ascertainable from the documents of title deduced to the Transferee are deemed to be within the actual knowledge of the transferee notwithstanding the provisions of Section 6(3) of the Act. 2. The covenant implied by Section 3(3) of the Act shall apply only to charges or incumbrances created by the Transferor and the words "at his own cost" in Section 2(1)(b) of the Act are replaced by the word "at the Transferee's cost". 3. The covenant implied by Section 3(1) of the Act shall not apply to rights granted by the Transferor to other purchasers on the Estate which affect the Property and which are in substantially similar form to those set out herein nor does it extend to any charge encumbrance or other right which the Transferor does not know about.
11	Declaration of trust. The transferee is more than one person and <input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants <input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares <input type="checkbox"/> they are to hold the property on trust:

Use this panel for:

- definitions of terms not defined above
- rights granted or reserved
- restrictive covenants
- other covenants
- agreements and declarations
- any required or permitted statements
- other agreed provisions.

The prescribed subheadings may be added to, amended, repositioned or omitted.

Any other land affected by rights granted or reserved or by restrictive covenants should be defined by reference to a plan.

12 Additional provisions

Definitions

- 12.1 In this Transfer:
- 12.1.1 "Authorised Planning Permission" means the full planning permission for the residential development of the Estate under application reference number 14/0142/15/F subject to such subsequent modifications variations or relaxations obtained by or on behalf of the Transferor and any other planning permission(s) subsequently designated in writing by the Transferor to be the Authorised Planning Permission.
- 12.1.2 "Common Parts" means those parts of the Estate designed for common use by all of the owners and occupiers on the Estate including without limitation the [Estate Roads (where not adopted) , the Landscaped Areas and all Conduits the use of which is shared by more than one such owner or occupier which are not adopted.] and the hedgerow as shown on the Plan
- 12.1.3 "Conduits" means pipes sewers drains ducts conduits gullies gutters watercourses shafts wires cables optic fibres channels flues and other similar transmission media and installations including all ancillary apparatus equipment and structures or any of them.
- 12.1.4 "Documents" means the deeds and documents referred to in the Property or Charges Registers of the above numbered titles save any of a financial nature.
- 12.1.5 "Estate" means the Transferor's development estate at Brimhay, Dartington, Totnes, Devon TQ9 6HX being the land now or formerly comprised in Land Registry Title numbers DN495153, DN658281, DN95240, DN662616.
- 12.1.6 "Estate Roads" means the roads (including all footpaths and verges) now or later to be constructed by the Transferee within the Estate which are intended to be for communal use for the Estate as a whole such roads footpaths verges and forecourts being those designated as such from time to time by the Transferor (provided that no lesser amenity of access from the Premises to the adopted highway is provided) such designation at the date of this transfer being shown [hatched black] on the Plan.
- 12.1.7 "Excluded Vehicle" means any commercial vehicle or commercial trailer or similar vehicle other than a small van with a gross un-laden weight less than 1.5 tonnes.
- 12.1.8 ["Landscaped Areas" means the parts of the Estate shown [coloured green] on the Plan save where they will fall within the ownership a Unit.]
- 12.1.9 "Plan" means the plan annexed hereto.
- 12.1.10 "Planning Agreements" means any agreement with any of the Service Authorities relating to the provision or regulation of Conduits or roads paths highways verges splays lighting traffic signals or other highway infrastructure including (without prejudice to generality) any agreement under the Highways Act 1980 or the Water Industry Act 1991 or the Public Health Act 1936 and any agreement or obligation under Section 106 or Section 297 Town and Country Planning Act 1990 and any agreement

under Section 111 Local Government Act 1972 and/or Section 33 Local Government (Miscellaneous Provisions) Act 1982 or in any local Act and shall include an undertaking given in lieu of any such agreement.

- 12.1.11 “Remainder of the Estate” means the Estate excluding the Property.
- 12.1.12 “Service Authorities” means the companies or authorities from time to time responsible for Utilities and/or highways for the area in which the Property is situated.
- 12.1.13 “Service Charge” has the meaning given to it in the First Schedule to this transfer.
- 12.1.14 “Unit” means any single dwelling unit forming part of or the whole of the Property as contemplated by the Authorised Planning Permission.
- 12.1.15 “Utilities” means gas water electricity telecommunications and foul and surface water sewerage and such further services as the Transferor may specify.

12.2 Interpretation

- 12.2.1 Where the context so admits the expressions the Transferor and the Transferee shall include any successor in title of the Transferor and the Transferee.
- 12.2.2 References to any statute or section of any statute shall include a reference to any statutory amendment modification or re-enactment of the statute or section of the statute for the time being in force and to every instrument order direction regulation bye law permission licence consent condition scheme or other such matter made thereunder or pursuant to the statute or section of the statute.
- 12.2.3 Words importing the singular shall include the plural and vice versa and words importing one gender shall include all other genders.
- 12.2.4 Unless the context requires otherwise, references to persons include firms, companies and vice versa, and references to a schedule or clause are references respectively to a schedule or a clause of this transfer.
- 12.2.5 The clause headings do not form part of this transfer and shall not affect its construction or interpretation.
- 12.2.6 Where any party comprises more than one person the obligations and liabilities of that party under this agreement shall be joint and several obligations and liabilities of those persons.
- 12.2.7 Reference to the “Property” and the “Estate” shall include reference to all or any part or parts thereof respectively.

Rights granted for the benefit of the property

- 12.3 The following rights are granted to the Transferee and the owners and occupiers of the Property for the benefit of the Property in common with the Transferor and all others authorised by the Transferor:
 - 12.3.1 The right of free and uninterrupted passage of Utilities

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

from and to the Property through the Conduits which now or at any time in the future may be in on or under the Remainder of the Estate SUBJECT TO the right for the Transferor to alter the route of any such Conduits provided the passage and running of all existing Utilities is preserved.

- 12.3.2 The right of inspecting, repairing, maintaining, servicing, laying and connecting into and where necessary renewing or replacing Conduits in on or under the Remainder of the Estate serving the Property subject in each case to:
 - (a) where necessary the Transferee having first obtained and then complying with any requisite consent from any appropriate authority
 - (b) the Transferee or other the persons exercising the said rights not opening the surface of any land covered by a building which is intended by virtue of any planning permission extant at the date of the exercise of such right to be so covered
 - (c) the Transferee having first (in the case of Conduits which are shared with other users on the Estate) notified the Transferor in writing of the need for the relevant works to be done and the Transferor having thereafter failed to take appropriate steps to carry out the works within a reasonable period after such notification
- 12.3.3 A right of way in common with others so entitled with or without vehicles (but so that vehicles use only the roads and not the footpaths and verges) at all times and for all purposes over the Estate Roads or any part thereof unless and until the same or any such parts thereof are adopted as public highway.
- 12.3.4 The right (if existing at the date hereof) to have the foundations eaves and gutters of the Property underlying or overhanging the adjacent parts of the Remainder of the Estate and the right to enter on such adjacent parts at reasonable times and on giving reasonable notice for the repairing maintaining and painting of the foundations eaves and gutters and the roofs chimneys and side walls of the Property provided always that the Transferee shall make good at his own cost and without delay all damage caused by the exercise of such right.
- 12.3.5 Such right as may be necessary of lateral and subjacent support and protection for the Property by and from the adjacent parts of the Remainder of the Estate and buildings erected or in course of erection thereof.
- 12.3.6 [A right to use the Landscaped Areas in such manner and upon such terms as shall be specified from time to time by the Transferor.]

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

Rights reserved for the benefit of other land

- 12.4 The following rights are reserved to the Transferor and its successors in title for the benefit of the Remainder of the Estate and each and every part thereof in common with the Transferee and all others authorised by the Transferor or its successors:
 - 12.4.1 The right to deal as it may think fit with the Remainder of

the Estate and to erect or permit to be erected upon it any buildings or structures even if they affect or diminish the light or air which may now or at any time be enjoyed by the Transferee in respect of the Property.

- 12.4.2 The right of free and uninterrupted passage of Utilities from and to the Remainder of the Estate through the Conduits which now or at any time in the future may be in on or under the Property.
- 12.4.3 The right of inspecting, repairing, maintaining, servicing, renewing, replacing, re-routing, and installing Conduits in on under or near to the Property serving or to serve the Remainder of the Estate and of connecting to and disconnecting from Conduits now or at any time in the future upon the Property including all necessary rights of access thereto over or upon the Property at all times with or without equipment subject in each case to:
- (a) any newly installed Conduits being laid only under open areas at the Property or otherwise as may be agreed with the Transferee (such agreement not to be unreasonably withheld or delayed)
 - (b) any new installation or connection being at the Transferor's expense
 - (c) the Transferor having first obtained and then complying with any requisite consent from any appropriate authority
 - (d) the Conduit having sufficient capacity for the obligations related to the use of the Property
- 12.4.4 The right during the period of ten years from the date of this transfer to enter the Property by prior appointment at all reasonable times (such appointment not to be unreasonably withheld or delayed) to carry out any works required under any condition or obligation attaching to or connected with any Authorised Planning Permission and/or to carry out any works which are the Transferee's responsibility under the terms of this transfer.
- 12.4.5 Such right as may be necessary of lateral and subjacent support and protection for the adjacent parts of the Remainder of the Estate by and from the Property and any buildings erected thereon.
- 12.4.6 The right (if existing at the date hereof) to have the foundations eaves and gutters of the adjacent parts of the Remainder of the Estate and any building erected thereon underlying or overhanging the Property and the right to enter on the Property at reasonable times and on giving reasonable notice for the repairing maintaining and painting of the foundations eaves and gutters and the roofs chimneys and side walls of the adjacent part of the Remainder of the Estate and any buildings erected thereon provided always that the Transferor shall make good at his own cost and without delay all damage caused by the exercise of such right.
- 12.4.7 A right of access to and entry upon the Property for the purpose of carrying out any works of construction maintenance or repair on any part of the Remainder of the Estate the Transferor giving to the Transferee at least 48 hours' notice before exercising such rights of access and entry (except in case of emergency).

- 12.4.8 The right for the Transferor at any time hereafter to enter upon unbuilt parts of the Property for the purposes of complying with the landscaping and planting requirements imposed upon it by the local planning authority whether or not under any planning consent.
- 12.4.9 All easements wayleaves licences rights and privileges granted or to be granted at any time in the future by the Transferor to any Service Authorities or local authority in connection with any Utilities of whatever nature provided through the Conduits for the benefit of the Estate or any part thereof the Transferee where so requested at the Transferor's cost (save where the grant is at the request of or for the benefit of the Transferee) granting to such Service Authorities or Local Authority such easements as may be required in connection with the provision and repair and renewal of such Utilities.
- 12.4.10 The right for owners of adjoining or neighbouring land within the Estate to access the Property for the purpose of meter reading where it cannot reasonably be done without such access.

Include words of covenant.

Restrictive covenants by the transferee

- 12.5 The Transferee covenants with the Transferor to the intent that the burden of the covenants will run with and bind the Property and that the benefit of the covenants will be annexed to and run with all the other parts of the Estate that the Transferee will observe and perform the following restrictions and stipulations:
- 12.5.1 Not to damage alter or remove (but to maintain and/or replace) any retaining walls which may exist within the Property.
- 12.5.2 Not to do omit or allow anything at or upon the Property which does or may constitute a breach of any planning permission, planning condition or statutory obligation which affects the Estate.
- 12.5.3 Not to do cause or allow anything on the Property which may be or become an actionable nuisance or cause damage to the Transferor or the owners or occupiers of any part of the Remainder of the Estate and in particular (but without limitation):
- (a) not to use the Property for any activity which may cause undue noise dirt dust smell or offence of any kind outside the Property
 - (b) not to keep on the Property any livestock poultry pigs or pigeons or other animals save for small domestic pets which do not cause a nuisance
 - (c) not to leave any washing laundry clothing or linen in open view whether for drying or any other purpose save only that where the Property has an enclosed rear garden the Transferee may hang recent washing out
 - (d) not to do omit or allow anything at or upon the Property which would or might in the reasonable opinion of the Transferor cause pollution or contamination within or outside the Estate

- (e) not to customize construct repair or maintain any vehicle on the Estate including inter alia motorcycle, quad bike car or other motor vehicle other than to carry out minor running repairs or simple maintenance which does not cause a nuisance
- 12.5.4 Not to park (save for temporary stopping) any Excluded Vehicle on the Estate Roads or on any other part of the Estate.
- 12.5.5 Not to do or cause any damage to (nor allow anything on the Property which might damage) any Conduits serving other parts of the Remainder of the Estate.
- 12.5.6 Not at any time to use any part of the Property as a means of access or as a route or site of Conduits into from or otherwise serving any land or premises outside the Estate.
- 12.5.7 Not to do anything which may lessen the support or protection given by any party wall fence or other structure or feature declared in this transfer to be a party responsibility.
- 12.5.8 Not at any time without the written consent of the Transferor to erect any building or other structure within three metres measured horizontally from the centre line of any Conduits serving any part of the Remainder of the Estate or neighbouring properties nor within that zone to plant any trees or other deep rooting plants or shrubs nor alter the soil over or the support under nor obstruct access with any necessary vehicles plant or equipment to any such Conduits (but to the intent that this covenant shall not prevent the retention of any structure in place at the date of this transfer nor the parking of vehicles on land designated for that purpose).
- 12.5.9 Not without the prior written consent of the Transferor to erect or allow any external lighting on any part of the Property. Such consent not to be unreasonably held where the lighting proposed is usual domestic residential external lighting.
- 12.5.10 Not to leave or store any goods or items of any nature in the front of the building line of the Property nor in any part of the Remainder of the Estate.
- 12.5.11 Not without first obtaining the Transferor's consent:
 - 12.5.11.1 to dispose of any part of a Unit as distinct from the whole
 - 12.5.11.2 within three years of the date hereof to carry out any external alteration addition or extension to the Property (except only by way of implementation of the Authorised Planning Permission)
 - 12.5.11.3 within five years of the date hereof to implement any planning permission or listed building consent at the Property except the Authorised Planning Permission
- 12.5.12 Not to lessen or diminish the support or protection now or on completion of the buildings upon the Remainder of the Estate to be given or afforded by all parts of the Property

- to any other building on the Remainder of the Estate.
- 12.5.13 Not to exhibit any advertisement nameplate writing drawing signboard or placard of any kind upon the Property except 'For Sale' signs nameplates and numbers of a reasonable size.
- 12.5.14 Not to keep any material of any unusually inflammable or combustible nature on in or about the Property or any part thereof save as may be required for normal domestic use provided it is stored in containers designed for that purpose.
- 12.5.15 Not to keep any dustbin in any position or condition so as to cause nuisance or annoyance.
- 12.5.16 Not to cause any obstruction damage or nuisance upon the Remainder of the Estate.
- 12.5.17 Not to park any caravan house on wheels trailer boat or other similar vehicles or craft on the Remainder of the Estate.
- 12.5.18 Not to use any area within the Property so designated upon the Plan other than for the parking of one private motor car or motor cycle or light commercial vehicle (save for any Excluded Vehicle) on each such area and not to park any such vehicles elsewhere on the Property or the Estate.
- 12.5.19 Not to raise or lodge any objection whether written or otherwise to any application for planning consent made by or on behalf of the Transferor including any appeal or inquiry thereon to the Remainder of the Estate or any part thereof or to any alteration of the plotting or layout of the Remainder of the Estate.
- 12.5.20 Not to dispose of or create any interest (other than one which is not registerable at the Land Registry or a charge) in the Property or any part of it without first obtaining and delivering unconditionally to the management company appointed to manage the Common Parts as referred to in clause 12.10.9 below (and to the Transferor if it is at the relevant time holding any interest in any part of the Remainder of the Estate) a deed containing a covenant duly executed by such disponent direct with the Transferor to observe and perform the covenants set out in this clause 12.5 and (where the disposition occurs within 10 years of the date of this transfer) in clause 12.6 of this transfer, including for the avoidance of doubt the provisions of this paragraph, such deed to be in a form set out in the Third Schedule.
- 12.5.21 Not to transfer the freehold interest in nor to grant any lease for a term in excess of one year of the Property without procuring that the transferee or lessee as the case may be provides to the Transferor:
- 12.5.21.1 an executed member's application letter in such form as is required by the Transferor to apply to become a member of the Transferor; and
 - 12.5.21.2 a completed and executed Transferor director's consent questionnaire in the form required by the Transferor
 - 12.5.21.3 a completed but undated form AP01 to effect the appointment of the transferee or lessee as

a director of the Transferor

Insert here any required or permitted statements, certificates or applications and any agreed declarations and so on.

Other

Positive covenants by the Transferee

- 12.6 The Transferee covenants with the Transferor to the intent that the burden of the covenants will run with and bind the Property and that the benefit of the covenants will be annexed to and run with all parts of the Remainder of the Estate but so that these covenants shall expressly not be included in any building scheme nor be for the benefit of any other individual plot building or house purchasers on the Estate as follows:
- 12.6.1 So far as all such matters relate to the Property to maintain and where necessary replace all parts of the Estate's approved landscaping and/or open space scheme as required by the Authorised Planning Permission and to comply with any other conditions attaching to any such planning permission and/or any Planning Agreement and to carry out any replanting necessary where relevant plants trees or shrubs die within the first five years after the date of this Transfer
- 12.6.2 To allow the Transferor or its nominee to enter the Property at reasonable times and after reasonable notice to carry out any works which are the Transferee's responsibility under the preceding clause 12.6.1 where the Transferee has failed to carry them out and the Transferor's costs and expenses in so doing shall be a debt payable by the Transferee on demand (and the Transferee covenants to pay such costs and expenses to the Transferor on demand) and shall be recoverable immediately by action
- 12.6.3 At any time during the period of 10 years from the date of this transfer to enter into such Planning Agreements as and in such form as the Transferor may reasonably require or any Service Authority or other competent authority may require where such agreements are necessary or reasonably desirable to obtain or to implement the Authorised Planning Permission and then facilitate the development of the Estate in accordance with the Authorised Planning Permission and thereafter (at the Transferor's cost save to the extent that such obligations relate to the Property) to comply with the Transferee's obligations in such Planning Agreement to the intent that any such development of the Estate is in no way impeded prevented or delayed provided that the Transferor shall provide an indemnity to the Transferee in respect of any such Planning Agreement save where the obligations relate to the use of the Property
- 12.7 The Transferee hereby covenants with the Transferor and all Service Authorities as follows:-
- 12.7.1 That the Transferee shall if required by the Transferor grant to the Service Authorities such easements as they shall require in connection with the provision and maintenance of all Conduits and for their use thereafter or any of them whenever constructed
- 12.7.2 To execute or procure the execution of any deed or document required by the Transferor for the purpose of giving effect to the provisions of sub-paragraph 12.7.1 hereof

- 12.8 The Transferee hereby covenants by way of indemnity only with the Transferor that the Transferee and the persons deriving title under him will henceforth perform and observe the covenants contained within the Documents so far as the same affect the Property hereby transferred and are still subsisting and capable of being enforced
- 12.9 The Transferee hereby covenants with the Transferor that the Transferee and the persons deriving title under him will:-
- 12.9.1 Keep in good condition and repair any Conduits in the Property which serve also parts of the Remainder of the Estate save where the Transferor is responsible for such repair
- 12.9.2 Indemnify the Transferor and its successors in title to the Estate against any cost of making good any damage done to any Estate Roads the Conduits or the Remainder of the Estate by any construction or other traffic connected to any works being carried out by the Transferee on the Property or elsewhere
- 12.9.3 Observe and comply with all reasonable regulations made from time to time by the Transferor and successors in title relating to the Estate Roads and Common Parts and communicated in writing to the Transferee
- 12.9.4 Maintain all of the boundary walls hedges (if any) and fences upon the Property marked on the Plan by an inward "T" mark (if any)
- 12.9.5 Pay the Service Charge in accordance with and generally comply with the provisions of the First and Second Schedules to include any arrears of Service Charge relating to the Property whensoever arising

Declarations

- 12.10 The Transferor and the Transferee hereby agree and declare as follows:
- 12.10.1 The rights detailed in clauses 12.3 and 12.4 hereof are subject as to the rights of entry to the persons exercising them:
- 12.10.1.1 effecting entry at a reasonable time (or at any time in an emergency)
- 12.10.1.2 giving reasonable notice
- 12.10.1.3 causing as little physical damage and disturbance as practicable and
- 12.10.1.4 making good any such damage caused as soon as reasonably practicable
- 12.10.2 The rights reserved in clause 12.4 hereof are intended to extend to any easements wayleaves licences rights and privileges granted or to be granted by the Transferor to any Service Authorities in connection with Conduits provided or maintained by them for the benefit and advantage of the Estate and the Transferee shall if requested by but at the expense of the Transferor grant to the Service Authorities such easements wayleaves licences rights and privileges as they shall reasonably require in connection with the provision and

maintenance of such Conduits

- 12.10.3 All walls fences and similar boundary features dividing the Property from any other part of the Estate are party and repairable and maintainable as such unless:
- 12.10.3.1 they are indicated on the Plan by a "T" within the Property or
- 12.10.3.2 they adjoin any Estate Roads and thus belong to the Property or
- 12.10.3.3 they do not abut on to adjoining buildings on the Estate in which case they belong to the Property unless they are indicated on the Plan by a "T" outside the Property in which case they belong to the relevant adjoining land
- 12.10.4 Where the Transferor proposes to carry out or to authorise the carrying out of any works to any wall fence or similar boundary feature or structure which would fall to be regulated by the Party Wall (etc) Act 1996 the Transferee hereby consents (for the purposes of section 3(3) of that Act) to such works
- 12.10.5 Neither the Transferee nor the Property shall by implication prescription or otherwise than by express grant in this transfer become entitled to any right of light or air or any other easement which would restrict or interfere with the free use for building or any other purpose of the remaining parts of the Estate and section 62 of the Law of Property Act 1925 is hereby expressly excluded
- 12.10.6 The Transferor may at any time modify or release any covenant or other restriction enforceable by it in respect of the Estate and the Transferor shall not be bound by any plotting or layout or development scheme relating to the Estate and may at any time modify or abandon any such scheme
- 12.10.7 No liability on the part of the Transferor shall arise for any damage caused by want of repair to the Common Parts or any part or parts thereof or any defect therein (as the case may be) unless and until notice in writing of any such want of repair or defect has been given to the Transferor and the Transferor or its successors in title shall fail to remedy such want of repair or defect within a reasonable time after the receipt of such notice
- 12.10.8 Nothing contained in this Transfer shall prejudice the right of the Transferor to recover in full from the Transferee or his successors in title the amount or value of any loss or damage suffered by or caused to the Transferor or the Common Parts or any part or parts thereof (as the case may be) by the negligence or any wrongful act or default of the Transferee or his successors in title or his or their tenants servants or agents
- 12.10.9 All rights granted and reserved to the Transferor herein and all covenants entered into by the Transferor herein shall where the same are granted, reserved or entered into in respect of the Common Parts bind any management company to which the Transferor may transfer the Common Parts in place of the Transferor upon completion of such transfer and the Transferor

shall there upon be released of all its said obligations absolutely.

Transferor Covenants

12.11.1 The Transferor covenants with the Transferee to provide the Services and pay the Additional Expenses (as defined in the Second Schedule) provided always that the Transferor will have no liability to the Transferee in the following circumstances:

12.11.1.1 for the interruption of any Services for reasons of inspection, maintenance, repair or other works (in which event the Transferor will restore the relevant Service as soon as reasonably practicable); nor

12.11.1.2 where provision of the Services is prevented interrupted or hindered by any reason beyond the reasonable control of the Transferor nor

12.11.1.3 where and to the extent that the Transferor is not aware of any defect in the provision of the Services (so that the Transferor shall not be liable to the Transferee for a reasonable period after becoming aware of any such defect while and provided that the Transferor uses all reasonable endeavours to ensure that the defect is remedied as soon as is reasonably practicable)

And provided further that the Transferor may withhold vary or make any reasonable alteration in the rendering of the Services or any of them from time to time which directly or indirectly benefit the Property if the Transferor acting in accordance with the principles of good estate management deems it desirable to do so

12.11.2. pay the Service Charge in accordance with and generally comply with the provisions of the First and Second Schedules to include any arrears of Service Charge relating to the Remainder of the Estate whensoever arising.

Restriction and General

12.12 The Transferor and the Transferee jointly apply to the Chief Land Registrar to enter upon the register of the title to the Property upon registration of the Transferee as proprietor a restriction in the following form:

“No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge not being a charge registered before the entry of this restriction is to be registered without a certificate signed on behalf of the Transferor by a conveyancer that the provisions of clauses 12.5.20 and 12.5.21 of the transfer dated the _____ day of _____ 2017 referred to in the Charges Register have been complied with or that they do not apply to the disposition”

12.13 The Transferee and the Transferor jointly apply to the Chief Land Registrar to enter upon the register of the title to the Remainder of the Estate a restriction in the following form:

“No disposition of the registered estate by the proprietor

of the registered estate or by the proprietor of any registered charge (not being a charge registered before the entry of this restriction or a transfer to a Registered Provider as defined in section 80 of the Housing and Regeneration Act 2008) is to be registered without a certificate signed on behalf of the Transferee by a conveyancer that the provisions of clause 12.11.2. of the transfer dated the day of 2017 have been complied with or that they do not apply to the disposition”

THE FIRST SCHEDULE

The Service Charge

1. In this Schedule the following expressions have the meanings respectively assigned to them:

the “Accountant” means the accountant for the time being of the Transferor which may if it thinks fit employ the Managing Agents as the Accountant for the purposes of this Schedule

the “Managing Agents” means such managing agents for the Estate (if any) for the time being as may from time to time be appointed by the Transferor

the “Accounting Year” means the period of twelve months ending on the 31st day of March in any calendar year or any other period specified by the Transferor

the “Aggregate Maintenance Expenditure” means the total amount which shall be certified by the Accountant of expenditure incurred during the Accounting Year in respect of the Services and the Additional Items of Expenditure together with such an amount as shall within the discretion of the Transferor be transferred to a reserve fund in respect of anticipated future expenditure in respect of the Services or the Additional Items of Expenditure

the “Services” means the services for the Estate set out or referred to in Part One of the Second Schedule

the “Additional Items of Expenditure” means the matters set out or referred to in Part Two of the Second Schedule

the “Service Charge” means the amount payable to the Transferor by the Transferee and certified by the Accountant acting in a professional manner being a fair proportion properly attributable to the Property (in respect of which the Managing Agents’ decision shall be final and conclusive save in the case of fraud or manifest error) of the Aggregate Maintenance Expenditure incurred by the Transferor in the year to which the certificate relates

2. The Transferee shall if required by the Transferor pay by half yearly payments to the Transferor such sum in advance and on account of the Service Charge relating to each subsequent Accounting Year as the Accountant shall specify to be a fair and reasonable interim payment
3. Within three months after the end of the Accounting Year the Accountant shall determine the amounts respectively of the Aggregate Maintenance Expenditure and the Service Charge and shall prepare the certificate in relation thereto and the

same together with the said amount shall be notified to the Transferee due credit being given therein for all interim payments made by the Transferee in respect of the said year.

4. If following the preparation of the said certificate the Transferee shall be shown to have paid an excess or a shortfall of the Service Charge the respective sum shall be allowed as a credit or paid as a reduction in the amount of Service Charge payable in the next Accounting Year.
5. Where any payment due from the Transferee under this Schedule is not within five working days of the due date the Transferee shall in addition pay interest on all outstanding sums calculated on a daily basis for the period starting on the due date and ending on the date of actual payment at the rate of 4% per annum above the base rate for the time being of National Westminster Bank plc
6. In the absence of appointment of the Accountant the Transferor may exercise the duties of the Accountant

THE SECOND SCHEDULE

Part One - Services provided by the Transferor

1. The inspecting, repairing, maintaining, servicing, overhauling, amending, altering, lighting (where relevant), renewing, replacing, rebuilding, re-routing, installing, reinstating, and where appropriate washing and cleaning of the Common Parts in all such cases to such standard so as to ensure the Common Parts are in good repair
2. The maintenance repair and replacement of any site signboards erected for the benefit of the Estate
3. The maintenance of adequate public liability or any other insurance reasonably deemed necessary by the Transferor for all the Common Parts
4. The cost of complying with the Transferor's covenant to provide and maintain insurance as hereinbefore set out
5. The costs paid or payable to any Service Authorities supplying utilities to the Common Parts
6. Any other services relating to the Estate or any part of it provided by the Transferor from time to time and not expressly mentioned in this Schedule provided that the Transferor deems they are necessary acting in accordance with the principles of good estate management
7. Complying with the Ecological Management Plan in accordance with the Authorised Planning Permission

Part Two - Additional Expenses recoverable under the Service Charge

1. The secretarial accountancy administration and legal charges incurred in performing the Services including the fees
2. The cost of employing such staff and/or contractors as the Transferor deems appropriate for the provision of the Services and administering such provision
3. Without prejudice to the previous paragraph the fees and

expenses (and any attributable value added tax) of the Managing Agents

4. The amount which the Transferor shall or may be called upon to pay as a contribution towards the expense of making repairing maintaining rebuilding and cleansing any ways roads pavements or structures Conduits party fences walls or anything which may belong to or be used for the Estate or any part of it exclusively or in common with other premises near or adjoining the Estate
5. The cost of taking all steps reasonably deemed desirable or expedient by the Transferor for complying with making representations against or otherwise contesting the incidence of the provisions of any regulation bye-law legislation order or statutory requirements concerning town planning public health highways streets drainage or other matters relating or alleged to relate to the Estate for which the Transferee or any individual Unit owner or occupier is not directly liable
6. The proper cost to the Transferor of abating a nuisance in respect of the Estate in so far as the same is not the liability of the Transferee or any individual Unit owner or occupier
7. All value added tax (or any tax of a similar nature substituted for it or levied in addition to it) payable by the Transferor in respect of the Services and the Additional Items of Expenditure
8. Such reasonable provision for future expenditure in respect of any of the Services or the Additional Expenses as the Transferor shall in its discretion consider appropriate including the provision of such reserve fund as the Transferor shall consider appropriate
9. The payment of all rates taxes and other outgoings payable in respect of the Common Parts
10. The costs charges and expenses of preparing and supplying any rules and regulations for the Estate or use of it
11. The cost of providing such reasonable security arrangements for the Estate as the Transferor acting in accordance with the principles of good estate management deems appropriate
12. All other expenses properly incurred by the Transferor in the management of the Estate including (without limitation) interest and bank charges

THE THIRD SCHEDULE

The Deed of covenant

This Deed of Covenant is made the day of 201[]

BETWEEN

- (1) [Transferor] of [Company's address] ("the Transferor") and
- (2) [Transferee] of [transferee's address] ("the Transferee")

NOW THIS DEED WITNESSES as follows:

1 Definitions

In this Deed:

- 1.1 The "Property" means []
- 1.2 The "Transfer" means a Transfer dated [] made between Original Transferor (1) and transferor (2)
- 1.3 The "Transferee's Covenants" means all covenants and obligations undertaken by the Transferee in the Transfer including without limitation those contained or referred to in clauses 12.5,12.6, 12.7, 12.8 and 12.9 of the Transfer in so far as they relate to the Property
- 1.4 The "Transferee" includes where the context so admits the successors in title of the Transferee and where the Transferee is more than one person all covenants and agreements on the part of the Transferee contained in this deed shall be deemed to have been made jointly and severally by all such persons constituting the Transferee

2 Recitals

- 2.1 The Transferee has agreed to accept a [transfer] [lease] of the Property together with the benefit of easements and other rights set out in the Transfer
- 2.2 The Transfer provides that the Transferee (and his successors in title) shall enter into a Deed of Covenant in the manner set out in the Transfer and the parties to this deed have agreed to enter into this deed accordingly

3 Registration as a Member of the Company

The Transferee applies to be registered as a member of the Company

4 Company's Covenants

The Company covenants with the Transferee with effect from the date on which the Transferee completes the [transfer] [lease] to it of the Property that it will perform its covenants set out in Clause 12. to the First Schedule of the Transfer

5 Transferee's Covenants

The Transferee covenants with the Company [and as a separate covenant with the Original Transferor] that the Transferee will:

- 5.1 observe and perform all the Transferee's Covenants (and in particular but without limitation will pay to the Company the Service Charge (as the same is defined in the Transfer))
- 5.2 in any contract for the sale of the freehold or disposal of a leasehold interest of 21 years or more in the Property include a condition that the intending transferee or lessee as the case may be shall upon completion of the contract apply to become registered as a member of the Company
- 5.3 include in any such contract for the sale of the freehold or disposal of a leasehold interest of 21 years or more in the Property a condition precedent to performance of the

contract that the intending transferee/lessee shall enter into a deed of covenant with the Company in the terms of this deed and that the intending transferee/lessee shall bear all costs of and incidental to the preparation and execution of the deed including any stamp duty land tax payable on it

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

13 Execution

EXECUTED as a DEED by)
SOUTH DEVON RURAL)
HOUSING ASSOCIATION acting)
 by [], a)
 director, in the presence of:)

Signature of witness:
 Name:
 Address:

THE COMMON SEAL OF)
RURAL HOMES LIMITED was)
 hereunto affixed in the presence)
 of)
)

Authorised
 Signatory.....

Authorised
 signatory.....

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

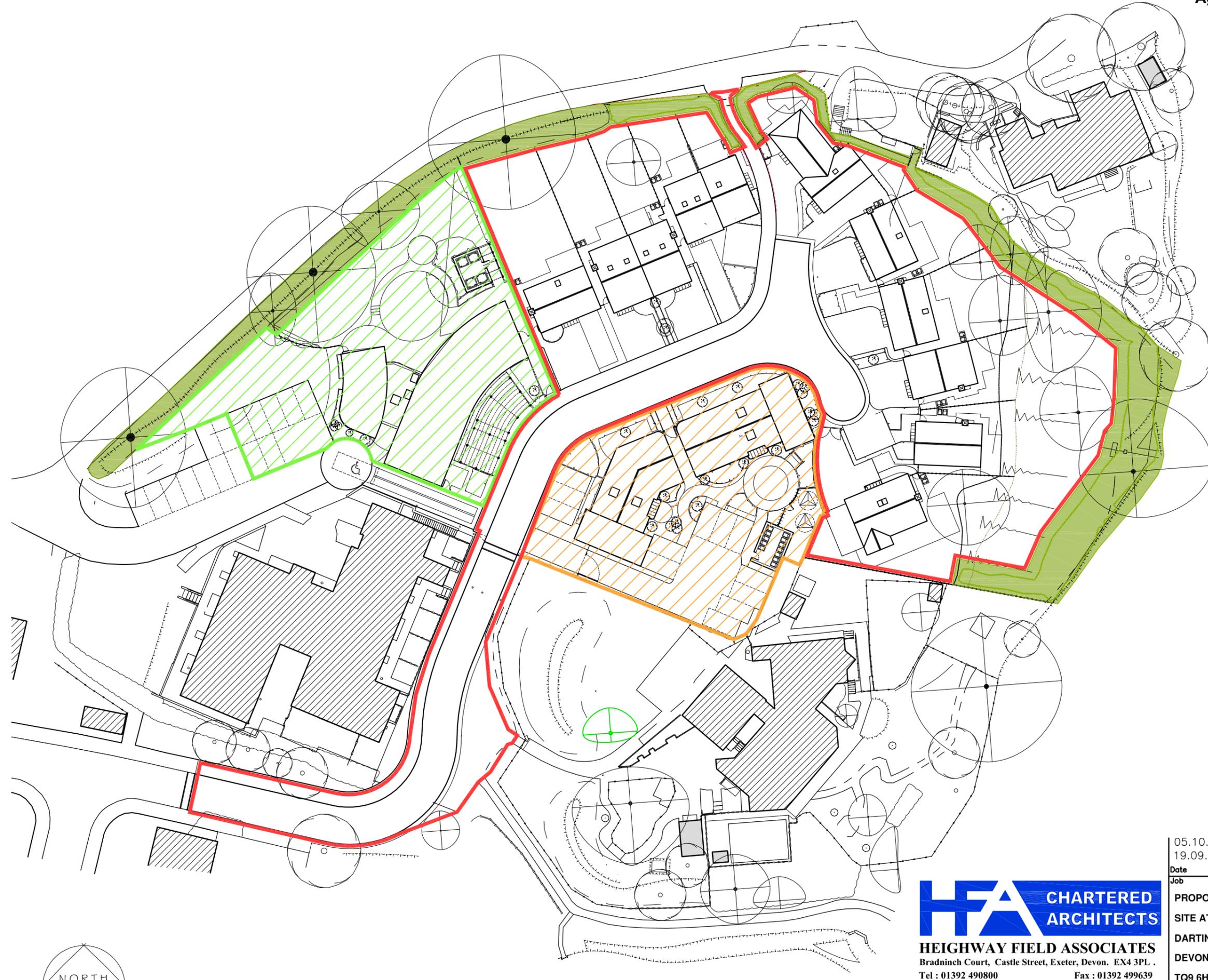
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key:

-  ROC Area - Future Development for 8No. Apartments
-  South Devon Rural Housing Association Affordable Area
-  Land to be transferred to Rural Homes Limited
-  Land to be retained by South Devon Rural Housing Association



SITE LOCATION PLAN
1:2500



HEIGHWAY FIELD ASSOCIATES
 Bradninch Court, Castle Street, Exeter, Devon. EX4 3PL .
 Tel : 01392 490800 Fax : 01392 499639
 E-Mail : architects@heighwayfield.co.uk Web Site : heighwayfield.co.uk

No dimensions to be scaled from this drawing. All sizes and dimensions to be verified on site. All dimensions on this drawing are in millimetres unless otherwise stated.

05.10.17	P2	NURSERY PARKING LAND ADDED
19.09.17	P1	PROVISIONAL ISSUE #1
Date	No.	Rev.
Job		Client
PROPOSED DEVELOPMENT		SOUTH DEVON RURAL HA
SITE AT BRIMHAY		
DARTINGTON		Scale
DEVON		1:500 @ A3
TQ9 6HT		Drawn
Drawing		MC
TRANSFER PLAN		Date
		September 2017
		Checked
		A.J.F.
		Drg No.
		1416 - 400
		Rev.
		P2



Broadwalk House Southernhay West Exeter EX1 1UA
Tel: 01392 207020 Fax: 01392 207019 DX8322 Exeter

TOZERS
Solicitors **LLP**



Mr Steve Prime
South Devon Rural Housing Association Limited
South Devon House
Babbage Road
Totnes
Devon
TQ9 5JA

17 August 2017

Our ref: ARK/S02217-0046

Direct: 01392 667687
Secretary: 01392 207894

By email: Steve@southdevonrural.com

Dear Steve

Re: Brimhay

As promised, here is my advice on the charity law aspects of the proposed development deal involving Rural Homes Ltd (RHL).

I am not sure that this is short enough to qualify as an 'executive summary', but I trust that it meets your needs.

1. Only one £1 share in RHL was allotted, to the parent company, South Devon Rural Housing Association (SDRHA), an exempt charity. On advice from Francis Clark, you wish to increase this to £50,000.
2. This involves an allotment of £49,999. There is no longer any authorised share capital so you do not need make any constitutional change first. But in accordance with Art. 11 the directors need authority, from SDRHA as sole member, to allot the additional shares to RHL.
3. Subject to advice from my corporate colleagues, then, the allotment can be dealt with by a written resolution by the RHL board and completion of Companies House form SH01 return of allotment of shares (which can be done online).
4. As you know, SDRHA is an exempt charity so it must comply with charity law even though it is not regulated by the Charity Commission (CC).
5. The CC expects the trustees of any charity to comply with both charity law and the requirements of the Trustee Act 2000 in making any investment, including in a subsidiary.
6. In brief, this involves the following (much of which I believe your SDRHA trustee-directors will have done already):
 - a. ensuring that the proposal is consistent with the charity's overall investment policy

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- b. treating the charity's interests as paramount, regardless of the position of the subsidiary or its directors
 - c. reviewing the business plan, cash flow forecasts, risk analysis etc.
 - d. taking appropriate advice on the investment and on the viability of the borrower (RHL)
 - e. assessing the balance between risk and return
 - f. assessing the suitability to the charity of the investment as compared with other forms of investment
 - g. ensuring adequate diversification of investments (no 'eggs in one basket')
 - h. not providing support on terms that involve a gift element
 - i. so achieving the best financial return within an acceptable level of risk
 - j. carefully minuting both the advice and the decision
 - k. regular monitoring the investment or project to ensure that the investment remains appropriate; and
7. As the CC puts it (CC14), *'If trustees have considered the relevant issues, taken advice where appropriate and reached a reasonable decision, they are unlikely to be criticised for their decisions or adopting a particular investment policy.'* It is fairly rare that the CC would look closely at investment decisions - unless they go badly wrong when the CC will, with the benefit of hindsight, assess whether the trustees had behaved responsibly and in the interests of the charity. There is a lot more I could say about their duties in this regard, but I won't go into more detail unless you want it.
8. My understanding is that there is no question of a loan to RHL initially, but that a loan will be required to fund the works to be undertaken by RHL. If so, there are further requirements to be met (which Francis Clark briefly touched upon):
- l. treating a loan to the subsidiary no differently from any external investment
 - m. requiring a commercial rate of interest, which must be paid and not merely shown as an accounting entry
 - n. requiring a capital repayment schedule too
 - o. obtaining security wherever possible (ideally a debenture involving a fixed and floating charge over the subsidiary's assets, with all usual powers for the lender, unless that is going to present particular problems with the [CAF] bank - in which case suitability must be reassessed)
 - p. properly documenting the loan arrangement
9. The loan must be a "qualifying loan", otherwise the charity could lose some of its tax exemptions. To qualify for tax relief, an investment must be for charitable purposes and not for the avoidance of tax. It must also be on commercial terms (see above). In short, it should be qualifying (as a so-called 'Type 12')

investment - 'for the benefit of the charity'), provided that the terms are properly commercial. To quote HMRC:

4.3 Type 12 investments will normally be made to generate a flow of income or capital appreciation to enable the charity to deliver its charitable objectives. Where this is the case 'for the benefit of the charity' is most likely to mean for the financial benefit of the charity. In this sort of case HMRC would expect to see evidence of trustees having made a properly considered investment decision. This would include taking properly qualified, and preferably independent, advice as necessary, the seeking of a commercial rate of return in relation to risk, taking reasonable steps to limit the charity's overall exposure to risk including securing loans where possible, and consideration of available alternatives.

4.4 There's no one test of commercial soundness and each case must be viewed on its own facts. Where the loan is an investment loan, HMRC will normally accept it's for the financial benefit of the charity where it:

- carries a commercial rate of interest which is paid and actively pursued
- is adequately secured
- is made under a formal written agreement which includes reasonable repayment terms

In considering the individual elements above HMRC will look at the arrangement in the round. For example, does the rate of return reasonably reflect the security and repayment terms? Have the trustees made proper enquiries into the credit worthiness of the borrower and do the terms reflect that? Have the agreed terms of the loan been applied in practice?

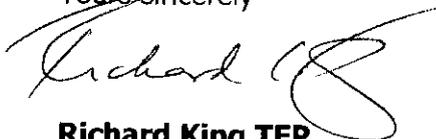
Forgive me if this last point had already been considered.

Having prepared most of this summary I have now read the tax report from Francis Clark dated 1.7.17, some of which inevitably mirrors my comments above, but I make no other comment on the financial, property or tax matters as those are outside my remit.

I hope that these requirements do not appear too daunting, but it is vital that the interests of the charity are put first. If you need more, do let me know.

With best wishes

Yours sincerely



Richard King TEP
Partner & Solicitor
Email: r.king@tozers.co.uk



Risk Assessment

Agenda Item 2c-Appendix 4 Appendix 11

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Category	Date Last Reviewed	Reviewer <u>for SDR</u>
Development – Brimhay Redevelopment Sheet 1	April <u>October</u> 2017	S Prime C Barnett

No.	Risk	Impact			Probability	Mitigation Actions / Controls	Effectiveness and further action	Residual Risk	Person responsible
		Financial	Performance	Operations					
1	Lower than expected returns on market sales	M	L	L	M	Robust financial appraisals of new business opportunities; Financially strong; Not over ambitious; Stress resting shows limits of risk Exit strategy	Business plan and financials examined by external independent consultants. (Francis Clarke) monitoring Local Sales <u>Potential for SDR to lease/purchase from RHL</u>	M	SP CB
2	Failure to win planned business on expected terms	H	M	H	M	Modest development programme Exit strategy for leased projects (ROC) – flexibility to change use – market rent, holiday accommodation, annex to Forder Lane Housenew opportunities to obtain grant funding	For rental stock good evidence of sustainable need Exit strategy for leased developments	H	SP CB
3	Abortive costs higher than planned	H	M	L	M	Board limits on pre development costs Pragmatic approach that bigger projects require larger investment	Maintain limits on exposure Further mitigation through commercial plans for the development through RHL Options to submit more commercial plans <u>Seek HCA/LA Grant</u>	M	SP CB
4	Inadequate performance management	M	H	H	L	Staff and consultants have good track record of delivery	Regular detailed reports to board	M	SP
5	Abnormals on site	H	M	L	L	All searches and investigations complete prior to contract Design and Build contracts	Examine all risk prior to awarding contracts Construction broken down into 3 contracts	M	SP CB
6	Contractor performance	H	M	M	M	D & B contract Performance bond Split redevelopment into separate contracts High performing contractors	Separate contracts limit risk in each phase Phase 1 delivers affordable first Tenders have been received and steps in place to arrange a negotiated contract if development progresses	M	SP
7	Adequate funds to complete project	H	M	M	M	Robust financial control	Stress testing to ascertain the amount SDR willing/needs to subsidise scheme. Revised loan facility with CAF Bank providing more funds on good terms with longer term funding. Existing facility renegotiated with better terms <u>Potential further funding Potential for interim finance Potential for leaseback with 3HYork/QSH</u>	M	CB SP
8	Post planning approval	H	M	M	H	Local protesters disrupt build process	Site security; CCTV Legal injunctions Opportunity for further challenges diminish	H	SP
9	Market sales do not meet expectations or timescale for return	H	M	L	M	Consider market rent for unsold units Loan agreement in place for 25 years	Surplus funds recycled into future developments Sales values holding up	M	SP
10	Competition from other local market developments	H	M	M	M	Local experience is that developers house prices will be higher than those used by SDR in financial model. SDR properties in good location good size and gardens	Ensure SDR keeps in touch with market trends and prices Marketing strategy 'Origins' development coming to an end – good sales figures in local area	M	SP
11	Transfer to another developer/sale/or Joint Venture	H	H	L	H	Outright sale or options agreement with capital amount to cover all SDR investment Reduced risk on sales RHL unable to set up trading credentials	Investigate further There has been interest in the site but opportunity for better value at present by SDR/RHL developing out the site RHL has been trading for over a year and is building credentials as a company.	M	SP

SOUTH DEVON RURAL HOUSING ASSOCIATION LTD

Authors (s) Francis Bourke

Board of Management

Agenda Item 3a

Policy Development Programme

FOR INFORMATION

Purpose

To ensure the Association meets it's regulatory and legal obligations, promotes continuous improvement and value for money services. Updating members on progress and agreeing key areas for review.

Please review Appendix 1 in conjunction with the Financial Regulations and Standing Orders Insert.

Key Policies and Development Areas:

Subject Development/Policy Title	Date Last Reviewed	Review Due Date	Reviewed By
----------------------------------	--------------------	-----------------	-------------

Corporate & Governance			
Board Members' Handbook	November 2015	11/19	SP (Updated 11/16)
Board Membership and Renewal	May 2014	05/17	SP
Tenant Board Membership	May 2014	05/17	SP
Admission of Shareholders	May 2014	05/17	SP
Complaints Policy	May 2014	07/17	FB
Whistleblowing	July 15	07/18	BB/FB
Equality and Diversity Policy	May 2014	07/17	FB SMT
No Smoking Policy	July 2014	07/17	SP
Motor Vehicle Policy	June 2015	03/18	CB
Resident Involvement and Co regulation Policy	January 2013	05/17	FB
Value for Money	July 2017	05/18	FB
CCTV	July 2014	07/17	SP

Finance			
Depreciation Policy	November 2013	05/17	CB
Financial Regulations and Standing Orders	July 2017	07/19	CB
Risk Management Policy	April 2014	05/17	FB/CB/SP/BVB

Subject Development/Policy Title	Date Last Reviewed	Review Due Date	Reviewed By
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Human Resources			
HR Handbook	March 2014	05/17	FB/CB
Code of Conduct - Staff	March 2014	05/17	FB/CB
Lone Workers Policy	July 2015	07/18	FB

Maintenance and Development			
Maintenance Policy	November 14	11/17	FB
Tenants Improvements, etc.	November 14	11/17	FB

Housing Management			
Customer Charter and Communication Plans	July 2014	07/17	FB
Anti-social Behaviour Policy	January 2015	10/17	FB
Lettings Policy	November 2013	10/17	FB
Lodgers & Sub-letting Policy	July 2015	07/18	FB
Parking Policy	New	05/17	FB
Overcrowding Policy	July 2015	07/18	FB
Compensation Policy	March 2014	10/17	FB/CB
Pets Policy	May 2014	10/17	FB
Succession Policy	July 2015	07/18	FB
Car Parking & Abandoned Vehicles Policy	March 2014	10/17	FB
Service Charge Policy	January 2015	01/18	FB/SP
Domestic Violence	September 2014	09/17	FB
Rent Increase Policy	Oct 15	10/18	FB/SP/CB
Rent Arrears Prevention and recovery Policy	November 2011	10/17	FB
Tenancy Management	January 2013	05/17	FB
Decanting Tenants	22 October 2014	10/17	FB

Support & Care Specific			
Safeguarding Adults	March 2015	03/18	BVB
Volunteer Policy	October 2015	10/18	BVB

Business Objective	RISKS		Impact Analysis					Risk Management Strategy and Management	RISK MANAGEMENT Effectiveness and further action	Person responsible and deadline	Current Risk
			Financial	Performance	Operations	Probability	Gross Risk				
Development To develop and manage sustainable, community based, affordable housing and related services for South Devon and surrounding areas, (Existing operations are in South Hams, Teignbridge, West Devon, East Devon, Mid Devon, Plymouth and Exeter.) where there is a proven need and good strategic fit or there is opportunity for strategic growth.	Risk Ref										
	LG2	Lack of capacity of senior management	H	H	H	M	H	Good HR & recruitment Annual appraisals Deputy CEO	SMT in place provides adequate deputation RHL provide development service	SMT	M
	D1	Development costs greater than planned	H	H	H	M	H	PSW partner Good consultants Small programme Driven by efficiency not growth	Specialise in rural areas Small schemes Robust financial appraisals Use of DCHA employer requirements	SP CB	M
	D2	Programme curtailed or not delivered on time	M	M	M	M	M	Strength of PSW Support from other developing 'smalls' HCA Audit No HCA funding	Retain small programme Good relations other RSL's, land owners and LA's	SP	M
	F1	Breach of loan covenants and financing	H	H	H	M	H	Reports to Board Close monitoring Flexibility Review procedures	Clear documentation and procedure Improve return on available assets	SP CB	M
	New	Lack of development opportunities	M	M	M	M	M	Continue market search, partnerships, opportunities through asset management (SDR existing sites/assets)	Strong record of achievement. Partners bringing opportunities to SDR. Open to joint ventures.	SMT	M
Asset Management To have well maintained properties that meet or exceed the Decent Homes Standard and which are cost effective to manage	RM 10	Deterioration of asset value	H	H	H	M	H	What do you want surveys Post works satisfaction Surveying/Inspection regime	Act on surveys Technical input Asset management strategy based on stock survey Robust Asset Register	PH SP CB FB	H
	HM 5	Landlords duty for Health and Safety breached	H	H	H	L	H	Good monitoring processes Stock condition survey Major works prioritise risk areas Regular assessment	Review procedures Hard wire battery alarms 100% CO2/CO detectors in gas properties Compliance audits Staff training	SP PH FB	M
	HM 9	Poor performance and economic decline	H	H	M	M	H	Low reliance on sales Diversified operations Good income stream Good financial performance Review poor performing assets – more business analysis.	Best use of loans Other business opportunities Regular review of Business Plan – keep real. Quality Management Award Information on repair costs.	CB PH SP FB	M
	New	Property type/location/performance	H	H	H	L	M	Monitor lettings/voids and rent levels/asset performance	Consider sale/Improvement	SMT	L

		RISKS					RISK MANAGEMENT					Current Risk
Business Objective	Risks Identified	Financial	Performance	Operations	Probability	Gross Risk	Risk Management Strategy and Management	Effectiveness and further action	Person responsible and deadline	Current Risk		
Housing Management To provide a housing management service that is cost effective, customer focussed, responsive to resident influence, and achieves a high rate of tenant satisfaction. Ensure staff are knowledgeable of stock, type and local, through training and site visits.	<u>New</u> <u>Controls on allowing conversion from social/affordable rents in times of downturn</u>	<u>M</u>	<u>M</u>	<u>M</u>	<u>H</u>	<u>M</u>	Labour propose sweeping changes to housing law and regulation	Include modelling for this scenario in stress testing		<u>M</u>		
	QPM 1 Inadequate performance management	M	H	H	L	H	Good communications Quality imbedded in organisation Benchmarking club Staff training	Implement Quality Management System Service reviews Monitoring at board level Handy man service	SMT	M		
	HM 2 Tenant Satisfaction low	M	H	M	L	M	Survey tenants on major works and repairs STAR survey -bi annually Monthly visits to schemes	Annual inspections New STAR surveys Involve tenants in monthly scheme visits	FB	L		
	HM7 ASB/Nuisance not dealt with adequately	H	H	H	L	H	Good policy procedure Interagency working Follow up	Specialist solicitors Case Review Staff training	FB	L		

		RISKS					RISK MANAGEMENT					Current Risk
Business Objective	Risks Identified	Financial	Performance	Operations	Probability	Gross Risk	Risk Management Strategy and Management	Effectiveness and further action	Person responsible and deadline	Current Risk		
Finance To be a financially stable organisation. Ensure the organisation is able to grow organically as well as funded and through future borrowings identified in strategic plans approved by the Board.	Risk Ref											
	F1	Breach of loan covenants	H	H	H	M	H	Reports to Board Close monitoring Flexibility	Clear documentation and procedure Improve return on available assets	SP CB	H	
	F4	Inflation/deflation	H	H	M	H	H	Financial models to assess impact inflation/deflation has – linked to cashflows	Monitoring Rent restructuring model Stress testing	SP CB	M	
	F5	Budgets	H	H	H	L	H	Accurate coding and recording Business plan with clear objectives Board approval and monitoring	Cashflow monitoring Financial appraisals on new projects Financial briefings for managers Review and benchmark contractor costs Allocation of management overhead – introduce time sheets Monitoring and recharge of business services	CB	M	
	<u>New</u>	<u>Further restrictions on ability to increase rents or convert social to affordable</u>	<u>M</u>	<u>M</u>	<u>M</u>	<u>H</u>	<u>M</u>	<u>If labour govern they have announced controls on rents in social housing</u>	<u>Include in stress testing</u>	<u>CB</u> <u>SP</u>	<u>M</u>	
	R3	Viability	H	H	H	M	H	Loan covenants monitored Not subject to right to buy/acquire sales High demand for housing Acceptable operating margins Good reputation Regular reporting to board	Robust financial appraisal of new projects on a like for like basis	SP CB	M	

Corporate Risk Register

261016(2c)

								Strong asset base			
Services for older and vulnerable people To provide, in partnership with other providers, care and support services that meet the requirements of residents and comply with regulatory requirements.	FLH 15	Breakdown with key agencies (CQC – Devon Social Services)	H	H	H	M	H	Comply with standards aim to exceed Good communications Current rating good Continue to develop good relationships	Follow care standards Continuous improvement Aim to meet highest standard rating	BVB SP CB FB	H
	HFLH 3	Market conditions	H	H	H	M	H	Upgraded rooms Good reputation/service Remain financially viable	Improve CQC grade Improve communications on contracts Promote and market services Regular audits Marketing	SP BVB	H
	NB 2	Failure to win planned new/existing business	H	M	H	M	H	Bid on good fit businesses Contracts with exit strategy Not dependent on growth – growth for efficiency Modest business development (development) programme	Ensure adequate supply dwellings for older people Develop exit strategy Consider acquisition of failing homes	SP BVB CB	H
	HM 2	Tenant Satisfaction low	M	H	M	L	M	Survey tenants on major works and repairs Status survey annually Monthly visits to schemes	Annual inspections Improvement plans	FB PH	L
	HM7	ASB/Nuisance not dealt with adequately	H	H	H	L	H	Good policy procedure Interagency working Follow up	Specialist solicitors Case Review Staff training	FB PH	L

		RISKS						RISK MANAGEMENT			
Business Objective	Risks Identified		Impact Analysis					Risk Management Strategy and Management	Effectiveness and further action	Person responsible and deadline	Current Risk
			Financial	Performance	Operations	Probability	Gross Risk				
Human Resources To recruit and retain well trained and motivated staff.	HR 1 and HR 2	Staff Recruitment and Retention	H	H	H	M	H	Good procedures Links with agencies Staff flexibility re cover Staff appraisals good terms and conditions Investor in people	Small company skills rest with few people Reviewed terms and conditions HR support Harris Law	CB SP	M
	HR 7	Loss of key staff	H	H	H	M	H	Flexible working Good terms Training	Review terms and conditions	SMT	M
Information and Communication Technology To have an IT strategy to meet the current and future needs of the association.	IT 1	ICT systems do not meet the needs of the business	H	H	M	M	H	Periodic review of IT Annual review of IT needs New maintenance and support contracts in place	Consider efficiencies by upgrading – scanning etc Lap tops for off site business continuity Review effectiveness of main software suite – training to make best use of functionality Web sites updated Performance reporting software	SMT	M

									Data protection training – all staff ICT support provider changed Remote working hand held systems		
	IT 3	Poor Internal and External communications	H	H	M	M	H	Board papers Web site Leaflets and newsletters Team meetings	Service reviews Staff meetings Survey tenant ICT capacity – upgrading digital engagement – SDR App – Mobile web – On line tenant accounts	SP CB FB	M
	New	Contacts and CMS	M	M	M	L	L	Tenant profiling Direct Debits e-mail and text contacts reporting tools	Increase tenant profiling Collate and review preferred contact methods Annual review of knowledge of tenant/occupancy status e-mail invoices/statements/r emittance New comms system to integrate with main software for CMS	FB SMT	L
Tenant Involvement To develop and implement a tenant involvement and tenant scrutiny strategy (including input to quality assurance).	LG 4	Lack of opportunity for tenants to influence management	M	H	M	M	M	Tenant Board Members Consultation embedded in organisation’s culture Complaints procedure Access to senior staff	Develop involvement policy Promote tenant scrutiny Tenants on Board Tenant Panel	SP Board FB	M

Corporate Risk Register

261016(2c)

Governance To ensure effective governance and clear accountability for the association, and maintain probity in its direction	LG 1	Failure of CEO and or the board to give effective leadership and control	H	H	H	M	H	Ensure board/CEO have appropriate skill sets through recruitment, induction and ongoing training. Staff and Board Member appraisal process	Regular review Board Member Handbook Recruit new board members Board training Attend sector seminars Adequate budget provision Effective appraisal Chair and Board	SP Board	M
	LG 2	Lack of capacity of senior management team	H	H	H	M	H	Good HR & recruitment Annual appraisals Deputy CEO	SMT in place provides adequate deputation SMT training	SMT	M
	LG 3	Management Information – poor or insufficient	M	M	M	L	M	Benchmarking club IT support contracts IT outputs user friendly Subscription services HR and Health and Safety	Internal Audit Good internal controls Policy reviews Good performance indicators QA systems (PICASSO)	SMT	M

Meeting Date	Start Time	Agenda Items	Comments
31 January 2018	5pm	Budget Quarter 3 Accounts	Approved Contractor Report Business Plan Review (annual)
23 May 2018	5pm	Draft Accounts and Quarter 4 Management Accounts	Asset Register Review
15 July 2018	5pm	Approve Annual Accounts Audit Report Annual Report	
12 September 2018 17 October 2018	7pm (Venue?) 5pm	Annual General Meeting Election of Officers Quarter 2 accounts Voids/lettings monitoring Policy updates	Corporate risk map review

Deadlines:

Papers by	Send out	Board Date	Comments
19 th January	22 nd January	31 January 2018	
11 May	14 th May	23 May 2018	
14 th July	16 th July	25 th July 2018	
29 th August	29 th August	12 th September 2018	
6 th October	8 th October	17 October 2018	
Away day		TBA	Suggestions for away day 2018

SOUTH DEVON RURAL HOUSING ASSOCIATION LTD

Board of Management

Author Claire Barnett

Agenda Item (4a)

Treasury Report

FOR INFORMATION

Purpose

To ensure the Association complies with the Regulatory Code, Best Practice and promotes continuous improvement.

Report

The tables below show South Devon Rural Loans and cash balances held in various bank accounts.

Summary of Loans Received and Made as at 4th October 2017

Bank	Amount £	Rate %	
Lloyds TSB	4,000,000	5.495	30 years to Sept 2037
Lloyds TSB	3,000,000	3.565	25 ½ years to Sept 2037
Triodos	2,770,718	3.5	Repayments started April 2015
Totnes TT	35,000	5	To finance PV panel installations
Totnes TT	16,667	4	To finance PV panels at Sutcliffe CI
CAF Loan A 10111545	726,800	2.5	2.25% above base rate Maximum loan £2,165,000 non utilisation fee 1.125% pa
CAF Bramble	694,565	2.5	2.25% above base rate
CAF Loan B 10112560	2,042,446	2.5	£2.1m Loan for the purchase of Broomborough and Kellock Drive 2.25% above base rate, min 2.25%
Total Borrowings	13,286,196		Rules allow up to £25,000,000
Rural Homes Ltd	15,000	6	New loan agreement agreed 26 th July with new interest rate at 1% above SDR charge

Total principal to be repaid in 17/18 is £200,815.

Summary of Accounts as at 4th October 2017

Bank	Investment £	Terms	Rate%	Comments
CAF Platinum	closed	30 day notice	0.15	Closed 20 th September 17
CAF Gold	400,326	Deposit	0.05	
CAF current	83,780	Current	0.00	Main account
Santander	2,053	Call account	0.49	No notice required.
Lloyds TSB	9,491	Current	0.00	Cash & Cheques now banked at Lloyds
Lloyds 32 day notice	60,000	32 day notice	0.32	New deposit placed June 17

Recommendations

To note the loans and balances held.

South Devon Rural Housing Association Limited

Author (s) Francis Bourke

Board of Management

Agenda Item (5a)

Performance Dashboard – Quarter 2

FOR INFORMATION

Purpose

To ensure the association monitors performance in key service areas, and advises the board of progress, improvements and areas that may need improving.

SDR monitor performance in a number of ways, to ensure quality of customer service and value for money. One of the ways SDR monitors performance is by using Key Performance Indicators (KPI's). This performance, is monitored, analysed and acted on by the management team.

The performance dashboard (**Appendix 1**) show how SDR are doing on some of the main KPI's. Green indicators show we are meeting or exceeding targets, amber indicators shows we are within 5% of targets, and a red indicator shows we are out of target and need to improve.

Agenda Item 5a Appendix 1							
Performance Dashboard	Performance 2016/17	QTR 1	QTR 2	QTR 3	QTR 4	Target 2017-18	Commentary
ASSET MANAGEMENT							
Annual Gas Safety Checks Completed	100%	100%	100%			100%	
Emergency	100%	100%	100%			100%	
Urgent	100%	95%	98%			95%	
Contractor Satisfaction	98%					90%	
RENT ARREARS							
GN Tenant rent arrears as % of annual debit	0.59%	0.58%	0.58%			1.25%	
Forder Lane resident rent arrears as % of annual debit	1.20%	1.22%	1.36%			3.00%	
Total Rent amount written off as a % of rent debit	0.08%					1.00%	
ALLOCATION AND VOID MANAGEMENT							
Void loss on homes as a % of gross rent	0.07%	0.21%	0.18%			1.00%	
Average re-let time (including major works(days)	15	19	26				
Average relet time (excluding major works)	13	16	26			14	Qtr 2 over target due to delays in 2 properties to facilitate relocation of Brimhay residents. 2 other properties needed readvertising.
Number Of Lettings	18	9	6				
% Of Lettings to BME Households		0	0				
ANTI SOCIAL BEHAVIOUR							
Total no of ASB Cases	4	0	2				
% Of ASB Actions Completed On Time	100.00%	N/A	100.00%			90.00%	
No of ASB cases open	2	0	2				

South Devon Rural Housing Association Limited

Author (s) Francis Bourke

Board of Management

Agenda Item 5b

Lettings Report – Quarter 2

FOR INFORMATION

Purpose

To show the board all lettings activity in quarter 2, including Forder Lane House.
See attached table.

South Devon Rural Housing Association

Lettings Report Qtr 2

Agenda Item 5b

Period:	01/07/2017	To:	30/09/2017			
Address	Property Type	Family Make Up	Void	Ethnicity	Date Let	Comments
1 Brimhay Bungalows	1 Bed Bungalow	N/A	05/09/2017	N/A	Not Re-let	
10 Brimhay Bungalows	1 Bed Bungalow	Single Female	10/07/2017	White British	20/08/2017	
12 Brimhay Bungalows	1 Bed Bungalow	N/A	11/09/2017	N/A	Not Re-let	
2 Broomborough Court	1 Bed Flat	Single Female	26/06/2017	White British	09/07/2017	
27 Broomborough Court	2 Bed Flat	Single Mother & 1 Child	03/07/2017	White British	30/07/2017	
6 Ember Road	2 Bed Flat	Single Mother & 2 Children	30/07/2017	White British	31/07/2017	
16 Hartley Court	2 Bed Flat	Single Mother & 1 Child	19/06/2017	Black	16/07/2017	
14 Honeywill Court	1 Bed Flat	Single Female	14/08/2017	White British	20/08/2017	
The Laurels	5 Bed House	2 Parents and 6 Children	22/08/2017	Not Known	23/08/2017	
2 Forder Lane House	Room in Care home	Single Male	31/07/2017	Not Known	31/07/2017	
6 Forder Lane House	Room in Care home	Single Male	08/06/2017	Not Known	20/07/2017	
6 Forder Lane House	Room in Care home	Single Female	31/07/2017	Not Known	01/08/2017	
6 Forder Lane House	Room in Care home	Single Male	03/08/2017	White British	04/08/2017	
8 Forder Lane House	Room in Care home	Single Female	20/06/2017	White British	04/07/2017	
8 Forder Lane House	Room in Care home	Single Female	04/08/2017	Not Known	18/08/2017	
9 Forder Lane House	Room in Care home	Single Female	07/09/2017	Not Known	07/09/2017	

25 Forder Lane House	Room in Care home	Single Female	05/09/2017	Not known	07/09/2017	
4 Sutcliffe Close	2 Bed Bungalow (Older Persons)	Single Male	12/06/2017	White British	09/07/2017	
5 Sutcliffe Close	2 Bed Bungalow (Older Persons)	Single Female	29/05/2017	White British	23/07/2017	

Members are recommended to note the report.

South Devon Rural Housing Association Limited

Authors (s) Francis Bourke

Agenda Item (6)

Board of Management

Complaints Monitoring

FOR INFORMATION

Purpose

That the Board note complaints and actions taken. The Association maintains a complaints monitoring register and as part of its desire to promote continuous improvement, the Board receives regular reports on complaints the Association has received. The outcomes help to develop and improve service delivery.

Complaints Monitoring

All complaints received by the Association are recorded. All complaints at stage 2 and above are reported upon in this report in more detail. All complaints which progress to stage 3 will be the subject of a separate written report in accordance with the Association's policy.

Record of complaints in the period 1st July 2017 - 30th September 2017

Stage 1	Stage 2	Stage 3	Comments
1			

Board are recommended to note the report.

Agenda Item 6a

South Devon Rural Housing Association Limited

Authors (s) Francis Bourke

Board of Management

Anti Social Behaviour
Monitoring

FOR INFORMATION

Recommendation

That the board note details and actions taken regarding anti social behaviour cases.

The Association maintains a register monitoring reports and incidents of harassment and anti social behaviour and as part of its desire to promote continuous improvement. The outcomes help to develop and improve service delivery.

Anti Social Behaviour and Harassment Monitoring Period 01/07/17 to 30/09/17

Agenda Item 6a

Date Complaint Received	Target Response Date	Actual Response Date	Tenancy Type	Complaint Details	Actions Taken	Responsible Officer	Status: Open/Closed
10/08/2017	21/08/2017 29/08/2017	21/08/2017 30/08/2017	Assured	Visitors to neighbour are causing a noise disturbance. Callers to property all through the night banging on doors and windows and shouting to be let in.	<ul style="list-style-type: none"> • Issued Diary Sheets • Information sharing with PCSO • Met with alleged perpetrator 	Samantha McNamee	Closed
25/08/2017	25/08/2017	25/08/2017	Shorthold Assured	Cannabis smoke repeatedly detected in neighbouring properties. Smell forcing child out of their bedroom.	<ul style="list-style-type: none"> • Issued Diary Sheets • Information sharing with PCSO • Met with alleged perpetrator • Sent letter warning of eviction 	Samantha McNamee	Open
25/09/2017	25/09/2017	25/09/2017		Same property as above, further incident reported: People shouting outside the building in the early hours, looking for a dealer	<ul style="list-style-type: none"> • Recorded information. • Continued Information sharing with PCSO 		
29/09/2017	29/09/2017	29/09/2017	Assured	Neighbour causing a noise disturbance throughout day and night. Loud music is left on even when the property is empty.	<ul style="list-style-type: none"> • Issued Diary Sheets 	Samantha McNamee	Open

South Devon Rural Housing Association Limited

Authors (s) Francis Bourke

Board of Management

Gas Servicing Report

FOR INFORMATION

Purpose

To provide board members information on the management of gas servicing.

The Association maintains a Gas Servicing register and as part of its desire to promote continuous improvement, the Board receives regular reports on progress on the delivery of the Gas Safety and Servicing Contract. The current contract is placed with Evans & Co. Where individual properties have not had their annual service and are 3 months or more overdue, an action plan to ensure servicing is carried out will be reported upon below.

Monitoring Report

Records of all SDRHA's properties with gas appliances are kept along with current service records in accordance with the Gas Safety and Servicing Policy and Procedure.

Records of Servicing/Safety Checks

01st July 2017 to 30th September 2017

Number of Properties	Number Serviced to date	Number outstanding over 3 months	Comments
108	108	0	Servicing visits ongoing on schedule

The Board are recommended to note the report.

SOUTH DEVON RURAL HOUSING ASSOCIATION LTD

Board of Management

Agenda Item 8

Care and Support

FOR INFORMATION

Purpose: To inform the Board of Management of the performance and monitoring of Forder Lane House Care Home, Day Care and Support Projects.

Staffing Report

Staffing remains stable.

The new deputy manager Claire Harrison has settled in well.

The staff sickness levels in the months of August and September have very been low.

We have dismissed one night staff member back in September due to safeguarding concerns, raised by other staff members, these concerns were investigated and a disciplinary hearing was held and the decision was made to dismiss. All the necessary professionals and families were informed.

Staff Training and Development

Training Requirement	Statutory/Ordinary	Number of staff trained	Dates Of Training
Moving and Handling	Statutory	All Staff	11 th April 17
Adult Safeguarding	Statutory	All staff	24 th April 17
Report and record Keeping	Statutory	All Staff	10 th May 17
People moving and Handling Trainer /assessor Course	Statutory	Deputy Manger	4 th 11 th 18 th and 24 th May 17
Dysphagia Awareness workshop	Statutory	3 Staff	8 th June 17
Infection and Control	Statutory	All Staff	4 th October 2017
Fire Training	Statutory	All Staff	9 th November 2017

Occupancy levels October 2017

Number of Rooms	Number Occupied	Comments
25	24	

Activities

The residents continue to attend Tia Chie on a Friday, Arm chair exercises are back in place and we also have a Jazz singer that comes in every other Thursday. The feedback from the residents has been very positive. The middle of October we will be restarting with the bingo and the managers quiz afternoon.

Managers Report

We continue to build relationships with the Intermediate Care Team and the local authority and receive regular referrals for short and long stay residents.

We have had a busy few months with residents moving in and out of Forderlane.

We continue to review and update our paperwork as well as the updating and reviewing of our care plans.

Hospital Admissions.

1 hospital admission

Health and Safety

Report

The Association monitors incidents, accidents and near misses

Monitoring Report

Records of accidents and near misses

July 2017- Oct 2017

Accident book entries	Accidents	Comments
9	9	Most falls minor/skin flaps or no injury
CQC reported	0	Person hospitalised broken leg/ head injury
Ambulance called	1	Treated at scene minor injury

0 accidents were reported under RIDDOR requirements.

Recommendations

Board Members are recommended to note the report

SOUTH DEVON RURAL HOUSING ASSOCIATION LTD

Board of Management

Author Steve Prime

Agenda Item 9

PROJECT REPORT – **Consider Confidential**

FOR INFORMATION

Purpose: To inform the Board of Management of progress on key and emerging projects.

1 Staffing Report

Samantha McNamee joined SDR as Housing Officer in August 2017.

2 Sub-Market Rental Scheme (SHIRE)

SP has approached SHDC to request Brimhay 'affordable rent apartments' be taken into the SHIRE scheme with an appropriate financial equity stake. (This will be subject to further financial appraisal).

4 South Devon House

Two offices became vacant in September, both have been re-let. The very small office/meeting room is not to be re-let as it is more valuable to SDR and RHL staff. This creates a visitor parking place at the front of South Devon House.

5 New Business Opportunities

Rural Homes Limited are following a number of development opportunities for SDR.

Rural Homes Limited are back on track with SWHS Denbury development.

SP is actively searching for local housing stock which is either with small organisations (under 100 units) or outlying from larger housing associations and therefore have potential to be acquired by SDR.

3HYork Limited is the new company formed out of QSH who brought the SHIP project (rent to buy) to SDR. The board previously considered working with QSH on lease back acquisitions (mainly Sec 106 units) and approved up to 100 units on this model. QSH have transferred its assets to 3HYork Limited and are now working with the Cooperative Pension Funds for ethical investment, through PIGM Global Fund Managers. SDR are looking at opportunities to enter lease and management lease agreements on 60 mixed units in South Devon – market and affordable rent based on an initial offer from 3HYork and QSH LLP shown at **Appendix X**. Full financial appraisals will be prepared as soon as Claire returns to work. Due to the nature of the proposals we will require a viability report from Francis Clarke, however we have taken initial advice on the proposed lease structure, for tax and VAT purposes. This is attached at **Appendix X**.

Recommendations

Board Members are recommended to note the report.

Outline offer for funding, leaseback on 60 units South Devon, QSH LLP and 3HYork.

1. South Devon Rural to develop 37 homes at Wrangaton for £5.9m. SDR to take a finance lease on the 11 affordable, plus an operating lease for the 26 market rented properties (see detail below). Development finance will be provided by QSH LLP (re-cycling equity in current schemes) - final QSH scheme. Purchase of completed properties will be agreed in advance with Co-Op Pension Fund.

2. Co-Op Pension Fund to make an offer equivalent to 60% of market value given to Acorn developments as a guaranteed purchase price for 23 affordable rented properties to meet their s106 allocation. Once completed SDR will take out a 35 year finance lease on them.

Finance lease terms – for the affordable properties

- Lease payments will be set at 80% of gross rents in year 1
- Rent levels in future years will be set by SDR
- Lease payments will rise annually on an upward only basis with RPI
- At the end of 35 years SDR will be able to purchase the properties for £1

Operating Lease terms – for the market rent properties

- Target rental income for collection will be set at 80% of gross rents in year 1
- SDR under no obligation to collect target income, but if target is achieved over 35 years they will be able to purchase for £1
- Target rental income will increase annually with RPI
- SDR will provide an underwrite of income falling below 60% of gross rents in year 1, increasing with RPI
- Should rental income fall below 50% of target income in any one year, properties will be sold on the open market.

MEMORANDUM

To : Steve Prime, South Devon Rural Housing Association (SDRHA)

From : Adam Kefford, PKF Francis Clark

Subject : High level summary of the key tax and accounting implications of the Wrangeton and Chillington proposals

Date : 22 September 2017

Background

Further to discussions during the week commencing 18 September 2017, the following provides a brief overview of the key tax and lease accounting aspects of the following two proposals which are under discussion:

Wrangeton – There are understood to be two options in terms of the Wrangeton proposal:

- a) SDRHA's wholly owned property development company, Rural Homes Ltd (RH), will acquire land at Wrangeton, on which it will develop 37 dwellings at an estimated total cost of £5.9m. The properties will comprise 11 dwellings which will be let on affordable terms and 26 dwellings which will be let on the open market. RH will seek development finance from QSH LLP. Before the development work commences, SDRHA will enter into an agreement with Co-op Pension Fund (CPF) under which CPF will agree to acquire the completed properties from RH (at market value) and immediately lease them back to SDRHA. It is understood that the affordable dwellings and market rented dwellings will be let to SDRHA on finance lease terms and operating lease terms respectively.
- b) Alternatively, CPF will acquire the Wrangeton land and contract RH to build out the properties. The completed properties will then be leased to SDRHA, as set out above.

Chillington – CPF will acquire 23 affordable rented properties from Acorn Developments (a third party property developer) at a price in the region of 60% of their market value. SDRHA will then enter into a 35 year finance lease with CPF for the properties.

This paper does not consider the commercial and legal implications of the arrangements, separate advice should therefore be sought in this regard.

Lease accounting aspects

For accounting purposes a finance lease is broadly defined as a lease that transfers substantially all the risks and rewards incidental to ownership of an asset to the lessee. The following factors are generally indicative of the existence of a finance lease:

- Substantially all the risks and rewards incidental to ownership are transferred – e.g. who is responsible for repairs and maintenance, insuring the asset etc.?
- The ownership is transferred over to the lessee at the end of the lease term
- The lessee has an option to purchase at the end of the lease term for an amount significantly below fair value – an assessment needs to be made at the inception of the lease as to whether the option will be exercisable
- Lease term is for the major part of the life of the asset
- The present value of the minimum lease payments amounts to substantially all of the fair value of the leased asset.
- The leased assets are so specialised that they would only be of use to the lessee

- There is a secondary rental period for an amount significantly below the market value rent (e.g. peppercorn rental).

The initial accounting for a finance lease is that the lessee should capitalise the finance leased asset and recognise a corresponding lease liability for the value of the asset being capitalised. Subsequently, the asset will be depreciated over the shorter of the lease term or useful life of the asset. Rental payments will include an element which reduces the lease liability (i.e. treated as a loan repayment) and a finance cost (i.e. interest) which will be charged to the P&L (and treated as tax deductible).

Conversely, an operating lease is defined as being any lease other than a finance lease. The following factors are generally indicative of the existence of a finance lease:

- Lessee is not responsible for maintenance
- Lease term is significantly lower than the useful life of the asset
- There are break clauses meaning that the lease term can be terminated early.

Rentals under operating leases are charged to the P&L on a straight-line basis over the term of the lease, any difference between amounts charged and amounts paid will be prepayments or accruals. It is also important to consider whether there are any periods for which the rent is going to be below or above the market value rental (or usual rental value – excluding RPI increases as this is unknown). This could be deemed as a lease premium or incentive and as such would need to be spread over the life of the lease in the profit and loss account.

Depending on the structure of the final arrangements, it may also be important to consider accounting for financial instruments. If SDRHA only acts as an agent for CPF and has an option at the end of the 35 years to acquire the properties for £1 then they may be considered to hold a non-basic financial instrument (i.e. an option) of which they may need to revalue to fair value every year. This could be a significant value and may change year on year depending on external factors. An example of such an agency relationship would be where CPF owns all of the properties and is effectively just using SDRHA to manage properties and collect rent.

Accounting summary

If SDRHA is treated as entering into a finance lease, the properties will be recognised as a fixed asset matched by a corresponding liability.

If treated as an entering an operating lease, then the properties remain off balance sheet and SDRHA would recognise net income for the profit/(loss) arising from the arrangement in the annual accounts.

It will be important to confirm the treatment of the arrangement with CPF once detailed draft lease agreements have been prepared. We understand that CPF are in the process of obtaining their own advice on the finance vs operating lease question. It would be sensible to ask for a copy of this advice which we would be happy to review and comment upon. Ultimately, if CPF are advised that an arrangement is, for example, a finance lease then one would expect SDRHA to adopt the same approach.

Finally, the accounting implications of the proposed arrangements could have an impact on SDRHA's banking covenants. We therefore recommend detailed financial modelling once CPF have put forward their final proposal to assess the impact.

It may be that the final arrangement is neither a finance lease nor operating lease e.g. where SDRHA acts on behalf of CPF as property management or letting agent. In this case the accounts would recognise an annual profit or loss from acting as an agent.

Tax aspects

The tax aspects of each of the proposals are summarised below, in turn.

Wrangeton – a) Build, sale and leaseback

- The non-primary purpose trading (non-PPT), being the development of properties for sale to CPF, is clearly separated and carried on by RH in isolation. This protects the tax exempt status of SDRHA. The development profits will be subject to corporation tax at the prevailing rate (currently 19% but forecast to fall to 17% with effect from 1 April 2020).
- Interest payments made by RH to QSH LLP will be deductible in determining RH's taxable profits. It will be capitalised as part of work in progress and be tax deductible on sale.
- Taxable profits may be mitigated by making payments to SDRHA under the Gift Aid Scheme, as discussed in greater detail in our earlier papers for the Brimhay development.
- SDLT would be charged on the acquisition of the land by RH. Charities relief would not be available in respect of the transaction since RH itself is not a charity.
- RH will be required to register and operate as a CIS contractor, which we assume it has already taken steps to do so in advance of the Brimhay development.
- The first grant of a major interest in the new dwellings (being the freehold sale of the completed properties to CPF) should be zero rated, subject to the conditions set out in our earlier papers. As a result RH should be able to recover input VAT on the construction costs incurred. The lease to SDRHA is exempt for VAT purposes.
- SDRHA should be able to claim charities relief from SDLT on the leaseback of the properties from CPF, we would want to confirm that the qualifying conditions for relief are met in light of the final proposal.
- Future rents received by SDRHA for the completed properties will fall under the letting exemption provided the income is used for charitable purposes.
- If the final agreement is akin to SDRHA acting as a letting agent for CPF, we would need to consider whether commission income received for managing open market rents could be treated as taxable. Such income would not fall under the letting exemption.

Wrangeton – b) Build and lease

- RH will be carrying on non-PPT activities, being the construction of properties under contract for CPF. The related profit will be subject to corporation tax at the prevailing rate (currently 19% but forecast to fall to 17% with effect from 1 April 2020).
- Taxable profits may be mitigated by making payments to SDRHA under the Gift Aid Scheme.
- RH would not be acquiring the land and as such a SDLT charge would be avoided.
- Again, RH will be required to register and operate as a CIS contractor.
- For VAT purposes, RH will be making zero-rated supplies of construction in respect of the work it undertakes on the new build dwellings for CPF. As a result RH should be able to recover input VAT on the construction costs incurred. Please refer to the earlier paper for specific rules on zero-rating. The lease to SDRHA is exempt for VAT purposes.

- Charities relief should be claimed to mitigate any SDLT charge for SDRHA in respect of the lease acquisition of the interests in the properties from CPF.
- Rents received by SDRHA for the completed properties will fall under the letting exemption provided the income is used for charitable purposes.
- If the final agreement is akin to SDRHA acting as a letting agent for CPF, we would need to consider whether commission income received for managing opening market rents could be treated as taxable. Such income would not fall under the letting exemption.

Chillington – Lease from CPF

- SDRHA and RH will not be carrying on any development activities and as such no taxable trading profits should arise for corporation tax purposes.
- Charities relief should be claimed to mitigate any SDLT charge for SDRHA in respect of the lease acquisition of the interests in the properties from CPF.
- Rents received by SDRHA for the properties will fall under the letting exemption provided the income is used for charitable purposes.
- As the income received by SDRHA relates to the rental of affordable houses, whether the final arrangement is a lease or letting agent agreement, the net income received by SDRHA should be tax exempt
- The lease to SDRHA is exempt for VAT purposes.

Tax summary

- The tax position will vary dependent on the final proposal for the Wrangeton project. However, with careful planning it should be possible to mitigate the corporation tax liability arising on any development/building services profit
- SDRHA should be able to claim relief from SDLT on the acquisition of any lease interest and any rental profit earned is exempt from corporation tax provided the income is used for charitable purposes.
- There is an overall SDLT saving on the Wrangeton development if CPF acquires the land at its non-developed value. If CPF acquires the completed development from RH, the SDLT would be based on a higher value which may be recovered by CPF through higher future rental payments. Therefore, pursuing option (b) for the Wrangeton project may be more beneficial.
- The construction of new dwellings and first grant of a major interest in new dwellings is zero rated. RH should be able to recover VAT incurred relating to the construction and sale subject to the normal rules. The lease to SDRHA is exempt from VAT.