

**WELLESLEY S106 AGREEMENT – RUSHMOOR BOROUGH COUNCIL
APPOINTMENT TO THE ESTATE MANAGEMENT COMPANY –
WELLESLEY RESIDENTS TRUST LTD**

SUMMARY

To consider the appointment of a Director to Wellesley Residents Trust Ltd

RECOMMENDATION

To appoint the Head of Communities as a director of Wellesley Residents Trust Ltd

1. INTRODUCTION

- 1.1 Under the terms of the S106 agreement dated 10 March 2014 for the Wellesley development, the developers Grainger plc and Grainger (Aldershot) Ltd were required to set up an Estate Management Company (EMC) as a non-profit-making entity, to maintain and manage in perpetuity the features of the development listed in Appendix 1 to this note.
- 1.2 A detailed Estate Management Plan setting out the maintenance and management arrangements has been approved by the Council as required by the S106 agreement.

2. BACKGROUND

- 2.1 The S106 agreement provides that the EMC shall have a management board comprised of stakeholders in the development including (inter alia) the Minister of State for Defence and/or the developers, this Council, the County Council, any registered provider of social housing on the site and occupiers of the residential units and commercial units on the site (para 9.3 of Schedule 1 to S106 agreement).
- 2.2 The structure and voting rights of the EMC were approved by the Council prior to its formation as required by the provisions of the S106 agreement. The maintenance and management costs of the EMC are funded by an annual service charge levied on the residential units in the development in accordance with obligations contained in the S106 agreement.

3. DETAILS OF THE PROPOSAL

- 3.1 The EMC was incorporated as a company limited by guarantee on 19 May 2014 and the Articles of Association of the company were adopted on 10 October 2014. They provide that the following shall be entitled to nominate

one person to be appointed as a director of the company (and can require the removal of such person as a director of the company and nominate another person in his/her place):

- Grainger (Aldershot) Limited (the Second Developer).
- Grainger Trust Limited (the registered provider of housing).
- The Land Restoration Trust (who have been granted a 999 year underlease of the SANGS by Grainger (Aldershot) Ltd and will manage -and maintain the SANGS).
- Hampshire County Council.
- Rushmoor Borough Council.
- The Minister of State for Defence.
- The Residents Management Committee (one representative following occupation of more than 30% of the Residential Units proposed to be comprised in the development and two representatives following occupation of more than 60% of the Residential Units).
- Additionally the directors may nominate one or more additional persons for appointment which may include a representative of the owners/occupiers of the commercial units on the site.

3.2 Also each of

- Grainger (Aldershot) Limited
- Grainger Trust Limited
- The Land Restoration Trust
- Hampshire County Council.
- Rushmoor Borough Council.
- The Minister of State for Defence.
- The owners of individual residential or commercial units.
- The owners of Affordable Housing Units (i.e. the registered providers of social housing);

shall be entitled to be registered as a member of the company.

3.3 Representation of the various stakeholders on the EMC is intended to ensure that the stakeholders are able to influence and monitor the management and maintenance of the common features by the EMC. It is considered that the Council should take up its right to become a member of the company, and nominate a representative as a director of the company, given the wide scope of the EMC's responsibilities, the length of the development of the site and the need to ensure that the obligations of the EMC are fulfilled in accordance with the approved Estate Management Plan.

3.4 We have approached Hampshire County Council concerning their appointments and they have advised that as it is not a requirement to take up their appointments, they have decided not to do so. They consider that as the Estate Management Plan sets out a framework for the management/maintenance of the maintained property, including the structure and funding of the maintained property, that they do not need to

be a member of the EMC as the roads, streets, footpath, cycle-way, street furniture, sustainable drainage are all intended to become publically adopted (albeit that they will be covered until such time as they are adopted). HCC's interest in the management functions of the EMC is more limited than this Council's.

- 3.5 A decision now needs to be made regarding the appointments on behalf of this Council. The Council will become a member of the ECM and this can be done by our formally notifying the developer that we wish to be entered on the register of members of the EMC. Committee is however, asked to consider who should be nominated as the director from the Council. It is considered that during the build out period, the appointee should be an officer of the Council rather than an elected member. The Head of Community has an in depth understanding of the estate management obligations of the EMC and the terms of the S106 agreement and is therefore recommended. The duties will be those of a director of any company and will involve attendance at board and general meetings of the company.

Alternative Options

- 3.6 To appoint a member to the EMC. An officer appointment is preferable whilst the EMC is being established and setting up the arrangements for the management of the estate. The Head of Communities is the most logical appointment given the relationship of the development with the public realm.

Consultation

- 3.7 The appointment has been considered by CLT and the Head of Communities selected.

4. IMPLICATIONS (of proposed course of action)

Risks

- 4.1 It is important to make an appointment so that the Council can influence the estate arrangements for the development to ensure that the development is properly funded and maintained so that later issues are not experienced by residents.

Legal Implications

- 4.2 The appointment is provided for by the section 106 agreement

Financial and Resource Implications

- 4.3 none

Equalities Impact Implications

4.4 None

Other

4.5 None

5. CONCLUSIONS

5.1 The appointment will discharge the Council's obligation under the section 106 agreement to provide appropriate representation on the EMC board and ensure that this important development and the infrastructure set out in the appendix is appropriately managed and maintained to a high standard without being a drain upon Council resources.

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