

# Core Strategy Review - Inspectors' Action Points

Matter 7a – Otterpool Park LLP – Background  
Paper for Inspectors

9 July 2021



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# **Otterpool Park LLP – Background Paper for Inspectors, July 2021**

## **1. Introduction**

- 1.1. During the administration and procedural session for the Core Strategy Review examination on 1 July 2021, the council offered to provide the Inspectors with a background paper on the LLP to explain the setup, governance arrangements and approach to funding of the new garden settlement.

## **2. Ownership Structure**

- 2.1. Folkestone & Hythe District Council formed Otterpool Park Limited Liability Partnership (the LLP) to act as master-developer for the new garden settlement at Otterpool Park.
- 2.2. The two member-owners of the LLP are the council itself and Otterpool Park Development Company Ltd, which is 100 per cent owned by the council.
- 2.3. The council owns 99.9 per cent of the LLP directly with the remainder 0.1 per cent being owned through Otterpool Park Development Company Ltd. (A diagrammatic representation is shown in Appendix 1).

## **3. Function of the LLP**

- 3.1. It is intended that the LLP will generate a commercial return to the council, principally by selling fully-serviced land parcels to housebuilders and commercial developers. Some of the receipts will be reinvested in the project, including further infrastructure if necessary. However the council will, from time-to-time, specify what rate of return it expects. The profits generated by the LLP will be available to the council to spend, as it sees fit, on its priorities.

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- 3.2. The planning and delivery of infrastructure is a key function of the LLP and a costed infrastructure programme has been prepared and will be maintained by the LLP. The key focus will be on delivering the infrastructure necessary to provide serviced plots capable of being built-out by third-party developers, as well as delivering the social and community infrastructure necessary for place-making and the achievement of the broader objectives of the council and the LLP.

### **4. Council Roles Regarding the LLP**

- 4.1. Beyond its role as local planning authority, the council has three key roles with regards to the LLP: owner; land owner; and funder. The council therefore has significant control and influence on the LLP and its activities.

#### **Council as owner**

- 4.2. The council as owner owns either directly or indirectly 100 per cent of the LLP and has the right to appoint six of the seven members of the board. The remaining member of the board is appointed by the Otterpool Park Development Company Limited (which, as stated above, is controlled by the council).
- 4.3. In addition, through the governing documents, a number of ‘consent matters’ exist which require council consent and cannot be determined by the board. These include: entering into contracts in excess of £500,000, material amendments to the agreed business plan, borrowing, acquisitions, changes to the business structure, etc.

#### **Council as landowner**

- 4.4. The council owns the majority of the land (or options for the land) associated with Otterpool Park. Arrangements are well progressed to manage land transfers (either to the LLP or third parties). The control of and release of land also provides opportunity to influence the rate, type and speed of development.

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### **Council as lender**

- 4.5. The council will be the sole funder of the LLP under current arrangements. Lending will be undertaken through a mix of debt and equity into the LLP.
- 4.6. The council is required to submit a business plan to the council every five years, which maps the activities of the delivery vehicle and outlines the funding requirements, including further land acquisition and key infrastructure. The business plan is required to be updated and submitted for approval to the council annually.
- 4.7. The funding requirement of the LLP is reflected in the council's own Medium Term Capital Budget. The council has the ability to undertake Prudential Borrowing and is doing so for Otterpool Park. The council is able to utilise its status as a local authority to access Public Works Loan Board finance, which is significantly below market value rates. The council has significant powers to borrow for regeneration and housing purposes, and is not subject to caps, limits or covenants, but instead has a duty to ensure borrowings are prudent and affordable.
- 4.8. The distribution of profits from the LLP is also governed by the existing agreements. Profits will be redistributed in full to the council (99.9 per cent/0.1 per cent split) after allowance has been made for working capital and reinvestment, agreed with the council through the approved business plan.
- 4.9. The council has not earmarked the profits of Otterpool Park LLP for any specific purpose or project at this time.

### **5. Council Objectives**

- 5.1. The Members' (Owners') Agreement between the council, the Otterpool Park Development Company and the LLP is the governing document of the LLP.
- 5.2. The delivery vehicle's activities to address the council's objectives for the Otterpool Park garden town has been agreed as including:

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- Being the planning applicant for the planning application and, where appropriate, subsequent planning applications relating to project delivery;
- Potentially acting as the manager of the community infrastructure created as part of the project;
- Leading and coordinating development activity at the project site, potentially via subsidiary vehicles;
- Where appropriate, facilitating partnership development arrangements to bring forward housing and employment opportunities at the project site, including joint ventures with other organisations;
- Where appropriate, holding and managing residential, commercial, agricultural and/or industrial land and buildings at the project site in advance of, during and following project delivery (as applicable);
- Leading and coordinating the delivery of such infrastructure works as are necessary as part of project delivery;
- Commissioning any necessary professional services relating to either the council's objectives for the Otterpool Park garden town and/or the business objectives of the delivery vehicle; and
- Carrying out such trading activities as will be identified in the delivery vehicle's business plan (which will be subject to periodic update, review and approval).

# **Appendix 1: Diagrammatic Representation of the Ownership of the LLP**

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Diagrammatic representation of the ownership of the LLP

