

Decision Maker:	Cabinet Member for Housing and Planning
Date:	28 th July 2023
Classification:	Part 1 (Unrestricted)
Key Decision:	No
Title of Report:	Approval of Porters Place Southend-on-Sea LLP 2021/22 Accounts
Executive Director:	Joe Chesterton
Report Author:	Pete Bates

1. Executive Summary

- 1.1 Porters Place Southend-on-Sea LLP is the joint venture entity set up to deliver the Better Queensway project.
- 1.2 The LLP accounts for 2021/22 are overdue for filing and to reduce the risk to the Council of action by Companies House the portfolio holder is asked to approve the accounts, as recommended by officers, on behalf of the City Council.

2. Recommendation.

- 2.1 That the portfolio holder approves the Porters Place Southend-on-Sea LLP 2021/22 accounts on behalf of Southend-on-Sea City Council.

3. Background.

- 3.1 The Council is a partner along with Swan BQ Ltd in Porters Place Southend-on-Sea LLP to support and progress the Better Queensway Regeneration Project.
- 3.2 Following the merger between Sanctuary Housing Association and Swan Housing Association, which took effect on 8th February 2023, Sanctuary has been overseeing the work of the Swan HA finance team in producing the 2021/22 accounts with Porters Place Southend-on-Sea LLP's appointed auditors Grant Thornton.

- 3.3 At the same time Sanctuary Housing Association have been undertaking due diligence on the Better Queensway project and have been in discussion with Southend-on-Sea City Council about their future involvement in the scheme. This has contributed to a need for the LLP to prepare the 2021/22 accounts on a non-going concern basis.
- 3.4 Regrettably the sequence of events has led to a significant delay in finalising the 2021/22 accounts. Sanctuary finance staff have made several successful requests for extensions to the submission deadline granted by Companies House.
- 3.5 However, Companies House has now indicated that it may seek to take legal action against the JV partners for failure to submit the 2021/22 accounts. The consequence of such action is small from a financial perspective, but it is likely to have significant reputational consequences for both parties and potentially the wider BQ scheme. There is also the identifiable risk that Companies House will commence strike off proceedings against the LLP due to the late filing of the accounts, so the matter has now become very urgent.
- 3.6 The accounts were presented to the LLP Board members on 25th July and approved. The LLP agreement dictates that final sign off of the LLP accounts is a matter reserved to the two JV partner independently of the LLP. Therefore, under the LLP governance process the Council now reviews, and if appropriate, formally agrees the accounts before they are submitted.
- 3.7 Swan BQ, and its new parent, Sanctuary HA has approved the accounts and, as 50/50 JV partner, are now insisting given the circumstances and the clear risks that the Council do the same without delay in order to submit the 2021/22 accounts in line with Companies House extended deadlines and expectations.
- 3.8 The headline change to the 2021/22 accounts compared to the 2020/21 accounts is that they are prepared on a non-going concern basis, as neither joint venture partner is currently providing further funding into the LLP while the partners are in dialogue about future involvement and the scheme is reviewed. It is possible for the LLP to return to a going concern basis once the future of the project is known.
- 3.9 Another item to note is the c. £18m loss posted. A significant part of this loss is due to a technical adjustment whereby a change in accounting treatment meant that the derivative asset value of the junior loan was added to the balance sheet in 2020/21 to reflect its "fair value". The value has now been adjusted to £nil as a result of the move to the non-going concern basis of preparation. This is purely an accounting adjustment and not the LLP losing this money in the year. This accounts for c £12m of the loss reported

- 3.10 The remainder of the 2021/22 loss is due to the work in progress being written down to zero due to the current non-going concern position. It should also be noted that the LLP was projected to make a loss in the year as per its business plan. This is in line with any regeneration project of this type where income is only generated once completed homes are being sold/rented.
- 3.11 In addition some liabilities that were previously long term, such as the junior loans, have been transferred to short-term following the end of the financial year. These liabilities were held as long term during the year of account and have been reclassified, post the end of the financial year, owing to the move to the accounts for 2021/22 being prepared on a non-going concern basis.

4. Reasons for Decision

- 4.1 Urgency.
- 4.2 The LLP has already been fined by Companies House for not filing on time. Now that the 2021/22 accounts are finalised and externally audited it is imperative to reduce any further reputational risk to the LLP and shareholders by ensuring that Companies House do not commence legal proceedings against the Partnership and the Council.

5. Other Options

- 5.1 If the Council waited for the next cycle of Council meetings to approve the 2021/22 accounts this could mean additional fines incurred and genuine risk of legal action.

6. Financial Implications

- 6.1 The Council's retained advisors, 31ten Consulting (31ten) have reviewed the 2021/22 accounts and advise as follows:

"The 2021/22 accounts for Porters Place Southend on Sea LLP (Porters Place) have now been reviewed by 31ten Consulting, and the following key points are drawn to Members attention.

There has been a significant change in the preparation approach for the accounts for 2021/22 as a result of the change in parent company structure for Swan Housing Association (Swan HA), and therefore, Swan BQ, the Council's, Joint Venture partner for Porters Place. Sanctuary Housing Association (Sanctuary) has taken on Swan Housing Association (Swan HA) within its group, due to Swan HA's financial issues. As a result, Sanctuary is reviewing all activities that Swan HA were undertaking to decide whether they should continue, and in what form. This has led to a pause in the Better Queensway scheme whilst this review is ongoing.

Porters Place has been funded, since its inception, from principally loans from the Council and Swan BQ. Whilst this review is ongoing, these loans have also been paused, resulting in Porters Place not having the funds to continue its operations in earnest. This has led to the decision to prepare the 2021/22 accounts on a non-going concern basis. 31ten are comfortable that this change is appropriate.

This change in approach results in a series of changes in treatment within the 2021/22 accounts that have been flagged in this paper. 31ten are comfortable that these changes are appropriate at this stage, and do not impair the accounts being a true and fair reflection of the activities of Porters Place for the year. The following points are however highlighted:

- A derivative asset was included within the accounts of Porters Place in 2020/21 and has been removed in 2021/22. As highlighted above, this is purely an accounting entry resulting from the non-going concern position and does not represent a “loss” of actual funds from the activities undertaken in the year. This asset related to the fair value of the loans to Swan BQ and the Council in the accounts that was included in 2020/21 and removed in 2021/22. It should further be noted that this does not impact the actual loan the Council has made to Porters Place which is still included within the accounts as a liability to be repaid to the Council.*
- The work in progress undertaken in the year has been revalued to zero. Again, it should be noted that this is reduced in value due to the inability of Swan BQ to implement the aspects that this work has funded due to the lack of funds from the JV Members. These elements include items such as the planning consent and highways contractor procurement. This does not mean that this work is necessarily worth zero in the future and will need to be reviewed as part of the preparation of the 2022/23 accounts and future activities.*
- Whilst the 2021/22 accounts do represent a true and fair reflection of the activities within the year, 31ten has flagged that additional disclosure, in the form of expanded notes to the accounts, would be helpful to explain to the reader of the accounts the treatment of aspects such as the derivative asset, work in progress and reclassification of long term creditors to short term, as required by the move to a non-going concern preparation basis. Due to the time constraints in submission to Companies House, the LLP chose not to include these disclosures. Whilst this is not ideal, it should be stressed that this does not invalidate the true and fair nature of the accounts.*

7. Legal Implications

- 7.1 The LLP agreement dictates that final sign off of the LLP accounts is a matter reserved to the two JV partner independently of the LLP. Therefore, under the LLP governance process the Council now reviews, and if appropriate, formally agrees the accounts before they are submitted.
- 7.2 Companies House has indicated that it may seek to take legal action against the JV partners for failure to submit the accounts, particularly given that additional extensions to the filing deadline have been granted. The consequence of such action is small from a financial perspective, but it is likely to have reputational consequences for both parties and potentially the wider BQ scheme. There is also the identifiable risk that Companies House will commence strike off proceedings against the LLP due to the late filing of the accounts.

8. Other Implications

- 8.1 These are contained within the background section above.