

## Slough Borough Council

<b>Report To:</b>	Cabinet
<b>Date:</b>	18 November 2024
<b>Subject:</b>	Recommendations of the Cabinet Committee: Update on Nova House / Ground Rent Estates 5 Ltd (GRE5) Business Plan
<b>Lead Member:</b>	Councillor Wal Chahal Deputy Leader – Finance, Council Assets and Transformation
<b>Chief Officer:</b>	Pat Hayes, Executive Director Property & Housing
<b>Contact Officer:</b>	Peter Hopkins, Director Property and Assets
<b>Ward(s):</b>	Herschel Park
<b>Key Decision:</b>	Yes
<b>Exempt:</b>	No
<b>Decision Subject To Call In:</b>	Yes
<b>Appendices:</b>	Appendix 1 – GRE5 Business Plan

### 1. Summary and Recommendations

- 1.1 This report sets out the recommendations from the Cabinet Committee meeting held on 14<sup>th</sup> November 2024. The Committee considered an update on Ground Rent Estates 5 (GRE5) and the current position and future programme of works at Nova House since approval of the business plan in February 2023 and the previous update in September 2023.
- 1.2 Cabinet Committee noted the update and agreed to recommend approval of the GRE5 Business Plan to Cabinet as at Appendix A.

#### **Recommendations:**

- 1.3 The Cabinet is recommended to:
  - a) Note the current position, including the latest estimate of the final financial exposure of Slough Borough Council (SBC).
  - b) Approve the GRE5 Business Plan appended at Appendix 1 for 2025/26 and note the GRE5 Business Plan for the period from April 2026 to March 2028.

## **Reason**

- 1.4 To ensure member oversight of the governance of GRE5 and to update members on the progress with works at Nova House.

## **Commissioner Review**

*The commissioners are content with the recommendations in this report.*

## **2. Report**

### **Introduction**

- 2.1 Members are aware the Council received a formal direction from DLUHC made under s.15(5) and (6) of the Local Government Act 1999, including a direction that prescribed functions are to be exercised by Commissioners; and the appointment of Commissioners from 1 December 2021.
- 2.2 A key component of the Directions is the need for the Council to demonstrate it can achieve financial sustainability. Under the Directions, the Council was required to review its companies within six months and consider the roles and case for continuing with each subsidiary company. For those it agreed to continue, the Council should ensure the appointed directors are appropriately skilled in either technical or company governance matters to make sure the Board functions effectively under an explicit shareholder agreement and that there is a nominated shareholder representative.
- 2.3 The Council's acquisition of GRE5 was for a specific purpose and as set out in its business plan, one of its key strategic objectives is to develop an exit strategy following completion of the works to Nova House.

### **Background**

- 2.4 Ground Rent Estates 5 Limited ("GRE5") is a company which is 100% owned by SBC (the Council). GRE5 owns the freehold of Nova House, a block of 68 apartments held on long leases in Slough town centre. The building was previously office accommodation and was converted to an apartment block in 2015 with additional floors added to the building.
- 2.5 In 2018, the Council purchased the Company for £1.00 due to concerns about the capacity and ability of the company, and its existing shareholders, to undertake the substantial remediation works required and concerns about the safety of residents. GRE5 has legal obligations under the Building Safety Act 2022 due to Nova House being a high risk residential block. The Council owns 100% of the share capital of 455,001 ordinary shares of £1.00 each.
- 2.6 A scope of works and Development Agreement were agreed with Slough Urban Renewal ("SUR") in 2021, and all Aluminium Composite Material (ACM) cladding was removed by the end of January 2022. However, the project was delayed due to covid restrictions and alongside additional building tests and surveys that were completed across 2020 to 2023 that identified a range of additional defects and technical issues.
- 2.7 Following the removal of the cladding, several structural issues were identified relating to the Spine Beam, bracing to the building, shims and column connections. For safety reasons, this resulted in the halt of the cladding replacement whilst SUR and its building contractor, Morgan Sindall (with Structural engineers Arup), made assessments and provided remediation

options for the structural issues. The structural issues would need to be remediated before the cladding and balconies could be replaced.

- 2.8 Works during 2022 focused on further investigations into the structural defects and design proposals for their remediation, this essential work delayed the project and caused unavoidable, further disruption, to the residents of Nova House. Although it is also noted that due to the removal of the cladding and safety measures in place, the building was made significantly safer from the risk of fire.

### Current position

- 2.9 Following a variation to the current development agreement being agreed at the beginning of June 2023, the structural stabilisation works were completed in December 2023.
- 2.10 During the structural stabilisation works identified fire compartmentation defects were also addressed. This work has also now been completed.
- 2.11 A further structural defect was identified to the perimeter of the 5<sup>th</sup> and 6<sup>th</sup> floors during the remediation works, whilst this is less significant than previous ones identified, it must be remediated for the balconies to be refitted and used by the residents. These works are scheduled to take place during August and September 2024. No further decanting of flats is required for these works to be carried out.
- 2.12 The installation of the insulation and cladding to the building commenced in September 2023 and is 70% complete at the time of this report.
- 2.13 Balcony Installations commenced in June 2024 and are staggered through the remainder of the project.
- 2.14 The sprinkler installation commenced at the end of July 2024.
- 2.15 The table below sets out the costs spent to date (as at end of August 2024), and those forecast to completion:

£m	Current To 31 Aug 24	Remaining forecast costs	Total costs
Ongoing Costs - incl Waking Watch	4.1	0.7	4.8
Legal Fees	2.4	0.1	2.5
Development Contract - Cladding	19.9	1.2	21.1
Development Contract - Additional Structural Works	2.0	0.4	2.4
Other external works	0.4	-	0.4
Decant costs	0.4	-	0.4
Other costs	0.2	-	0.2
<b>Total costs excluding interest</b>	<b>29.4</b>	<b>2.5</b>	<b>31.9</b>
Interest Charges	1.9	0.3	2.2
Interest Received	(0.4)	-	(0.4)
<b>Total Costs</b>	<b>30.9</b>	<b>2.8</b>	<b>33.7</b>

*\*includes waking watch costs, project management costs and directors fees*

The total expenditure of £33.7m compares to £30.6m previously reported. The increase is due to the following factors:

- an element of irrecoverable VAT on the development contract was previously omitted from the forecast in error. The position above reflects the full cost including irrecoverable VAT from SUR, which totals £23.5m across the recladding and structural remediation works;
- extension of the programme to January 2025. Although SUR have confirmed that the goal is to deliver the works before Christmas, there is the potential for slippage. Extending to January in the forecast is therefore prudent.
- the waking watch costs are still be incurred, and these have been extended in the forecast to December 2024 for prudence.

### **Forecast programme.**

- 2.16 The newly identified structural defect to levels 5 and 6 will be complete in October 2024.
- 2.17 The cladding is forecast for completion the end of November 2024, against a contract programme of January 2025.
- 2.18 Installation and commissioning of the Sprinkler system is programmed for completion in October 2024.
- 2.19 On completion of the contract works, a programme of works is required for the external landscaped areas, it has been proposed that this is carried out under the building management contract as there is a desire by the leaseholders/residents to input into this and it will also avoid costly preliminaries associated with the main contract works.

### **Business Plan**

- 2.20 An updated business plan has been considered by Company Board members and submitted to the Council as Shareholder for approval. The business plan covers the period 2024/25 to 2027/28 (Appendix 1).
- 2.21 As part of the development of the Business Plan, the company has engaged with Leaseholders in accordance with the Building Safety Act in respect of recovery of due monies.
- 2.22 The strategic aim of GRE5 is to ensure that Nova House meets all fire and safety requirements and that tenants can safely live in the property without the need for ongoing interim measures to address the fire and structural risks. As the freeholder of Nova House, GRE5 also strives to provide an excellent service to tenants and leaseholders.
- 2.23 The Council notes that the strategic objectives remain relevant as follows:
- Tenant safety – always act to maximise tenant safety and minimise disruption to their living conditions;
  - Building condition - ensure that Nova House meets all the requirements of the Fire Risk Assessment and the Building Safety Act;
  - Service to tenants and leaseholders - ensure the management of the building takes place in an efficient and effective manner and any issues are communicated appropriately;
  - Stakeholder management - communicate with our stakeholders and keep them informed throughout each step of the remediation works of Nova House in a timely manner;

- Shareholder interest – protect the interest of the Council, as shareholder, and seek to maximise cost recovery through the legal process;
- Exit strategy – develop an exit strategy in conjunction with the Council, which obtains maximum value for the freehold interest in GRE5, following completion of the works to Nova House.

### 3 Implications of the Recommendation

#### Financial implications

3.1 The financial forecast shown earlier in this report has been updated to reflect the current known and estimated future liabilities to conclude the substantial remediation works required and concerns about the safety of residents. The forecast also accounts for the additional £4.3m gross funding awarded by Homes England in May 2024. Of the funding awarded, £1.8m is contingency funding relating to eligible expenditure which was not foreseen at the time of the variation request. The revised forecast cost to completion for the Project is now £33.7m as outlined above. An exercise is being undertaken by GRE5 to identify the elements of the cost increase which are eligible and which contingency funding can be claimed for. For the purposes of this report, it has been assumed that 50% of the contingency funding can be accessed.

#### *Council loan exposure*

3.2 The combination of the successful insurance claim, Homes England funding and loan from the Council has resulted in sufficient funds being available to complete the works and recladding of the building. However, there is a shortfall between the funding receivable from parties other than the Council and the overall project cost. This is set out below.

	<b>£m</b>
Total costs from table above	31.7
Interest on Council loan	2.0
<b>Total project costs</b>	<b>33.7</b>
Third party funding (including 50% - £1m contingency claimed)	30.5
Leaseholder receipts	0.5
Interest income received by GRE5 on insurance monies	0.4
<b>Total funding</b>	<b>30.9</b>
<b>FUNDING SHORTFALL</b>	<b>2.3</b>

3.3 The funding shortfall of £2.3m relates predominantly to unfunded waking watch costs (£0.8m) and the interest payable on the SBC loan. However, the Council has undertaken an assessment of the funding shortfall and options and the shortfall falls between £1.9m and £2.8m. The Council has requested assurances from the Company that all future costs have now been confirmed with quotes, all

costs are known and that all eligible expenditure will be made against the Homes England grant.

- 3.4 The loan facility with the Council is available for GRE5 to draw against, subject to approval of drawdown notices and up to a maximum balance of £15.0m, until August 2027. Interest accrues on the balance of the loan monthly at a rate of 6.0% per annum. The balance on the loan facility with the Council was £2.2m as at 31 March 2024. Up to 30 September 2024, a further £2.6m loans have been granted in accordance with the loan facility, being £4.8m loan facility provided. A partial repayment is expected in October 2024.

### **Legal implications**

- 3.5 GRE5 is responsible for regulatory compliance of the Nova House site. The introduction of the Building Safety Act 2022 has significantly changed the rights, powers and protections for residents of high-rise buildings. The purpose behind the legislation is to provide leaseholders with protection from the costs associated with non-cladding defects, including interim measures like waking watches. Residents also have rights to report concerns to the Building Safety Regulator.
- 3.6 The Council owes a fiduciary duty to its taxpayers, as well as a best value duty to make arrangements to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Some of the works required to cover building defects are not covered by a Homes England grant, although the availability of grant funding has been widened over time. Any works undertaken by GRE5 to the building are likely to increase the value of the leases, but unlikely to substantially increase the value of the freehold interest. Therefore the Council needs to consider the recoverability of any loans, rather than assume that the value of its shareholding will increase. GRE5 has sought professional advice and taken legal proceedings against the original warranty holder and this has been subject to a mediated settlement. The Council is awaiting details of the recoverability of the remainder of its loan from qualifying leaseholders and the extent to which Homes England will recoup its grant funding from the settlement figure. A range of scenarios is set out in this report in relation to loan repayment. Members will be kept updated on this figure and the extent to which any outstanding loan should be written off.

### **Risk management implications**

- 3.7 The table below sets the key risks that the Company is managing:

<b>Risk</b>	<b>Summary</b>	<b>Mitigations</b>
Financial	Non payment of loan.	GRE5 directors have instructed lawyers and other professionals to pursue recovery action. It has also been successful in applying for a Homes England grant and been in discussions about further grant opportunities and is considering other recovery action.

<b>Risk</b>	<b>Summary</b>	<b>Mitigations</b>
		Despite this there is still a significant risk that not all of the loan will be repayable.
Legal	Legal responsibilities to residents	GRE5 has experienced directors who have the skills and knowledge to run a company managing a high risk building. Professional advice has been sought, including on the new regulatory requirements. Once the works are complete the Council needs to consider an exit strategy as the Council's original purpose in acquiring the company was to ensure that works were undertaken to rectify the building defects. The timescale for this was set out in the approved business plan as 2025/26.
Reputational	That taxpayer funds were used to fund works to a residential building.	Open and transparent reporting will allow residents and taxpayers to understand decision-making and the efforts made to manage the financial risks of the works.

### **Environmental Implications**

- 3.8 There are no direct environmental implications as a result of the recommendations contained in this report.

### **Equality implications**

- 3.9 No equality implications have been identified as result of the options in this report.

### **3.10 Procurement implications**

- 3.11 One of the Directions includes specific reference to the procurement and contract management function. Any element of this project that requires procurement will be subject to our usual procedures.

### **Workforce implications**

- 3.12 No direct workforce implications.

### **Property implications**

- 3.13 The future of GRE5 and Nova House are key considerations in the review of council assets.

## **4 Background Papers**

None.