

## **Appendix F - HGGT Stewardship Charter: QRP Feedback and Scenario Testing**

### **Introduction**

In its consideration of the draft Stewardship Charter in 2023, the QRP advised that scenario testing the Charter would help to manage risks. Its advice was:

• *Scenario testing the Charter and its principles will help manage risks and support the Garden Town in getting the right outcomes. Working back from these potential scenarios will also help establish stewardship priorities and understand the scope for negotiations with developers.*

This assessment sets out the outcome of the consideration of a number of scenarios against the requirements set out in the draft Charter.

### **Scenario Selection**

Scenarios have been identified which appear to have a reasonable prospect that circumstances of this nature may occur. On that basis, those identified and tested in this summary are as follows:

- A physical asset is offered to, but rejected by the stewardship organisation;
- Assets are retained by landowner/applicant or handed to a third party managing organisation;
- The level of local representation within the stewardship organisation is low or nil;
- The stewardship organisation seeks to charge excessive service charges or undertakes robust non-payment enforcement action;
- There is no, or limited community collaboration and co-design in the delivery of assets.

In each case, the scenario has been tested against the content of the Charter and consideration has also been given to other controls which may have an impact in relation to undesirable outcomes. Any recommendations for change to the draft Charter are also set out.

### **Scenario Testing**

#### **Scenario 1**

An asset is offered to, but rejected by the stewardship organisation

#### **Commentary on content of Charter and other controlling mechanisms**

The Charter sets out the initial requirement for asset identification at the outline application stage. At full application stage asset planning and design is to take place, with further consideration given to the financial implications of assets. Asset delivery and verification takes place as part of the ongoing development of sites.

Principle 1 addresses the need for the collaborative identification of and planning for assets, including the requirement for a Community Engagement Strategy. More detail is outlined in Principle 2, which focusses on the requirements for collaborative identification and delivery of assets.

Principle 4 relates to representative governance structures and sets out that a Shadow or Advisory stewardship body should be set up as early as possible in the consideration of site delivery.

Principle 5 deals with financial sustainability and sets out the stages of financial planning and the requirement for Asset Management Plans, ensuring that the liabilities associated with assets are identified as part of their design.

Given the collaborative planning and design requirements of the Charter, the need for early financial planning and Asset Management Plans, it is unlikely that the implications of any asset will not be identified and scoped early in their delivery. It is anticipated that unknown liabilities or a cautious approach to the risk of asset management could still provide a basis on which an asset is not accepted by the stewardship body.

In relation to liabilities it is not considered that further amendment or addition to the Charter is necessary. There are references to need to plan for assets and to identify their ongoing implications.

With regard to the potential for risk adverse stewardship bodies, this is a possibility and would run contrary to the ambition set out in the Charter that stewardship outcomes are entrepreneurial and ambitious. As with the financial considerations, this is referenced throughout the Charter. However, it is anticipated that there would be further benefit in a specific reference to the expectation that all assets, unless they are in other forms of public control, are transferred in total to a single stewardship body for each site for transparency and clarity with regard to responsibilities.

### **Recommended amendment to content of the Charter**

**New para 2.11:** For the purposes of transparency and clarity, it would not be expected that there would be more than a single Stewardship Body for each site and that, where assets are transferred, they are transferred to that Body. Retention of assets by the initial site owner/ developer is not anticipated.

### **Scenario 2**

Assets are retained by landowner/applicant or handed to a third party managing organisation

#### **Commentary of content of Charter and other controlling mechanisms**

Principle 1 sets out the requirement for a collaborative approach to stewardship, indicating that a Stewardship Body is to be set up to take control of assets. This would take the form of a Shadow or Advisory Body at an initial stage. Principle 2 sets out further details in relation to the collaborative approach expected. The additional para 2.11 (see response in relation to Scenario 1 above) further sets out that assets, where they are transferred, are expected to be transferred to that Body.

Principle 4 relates to the expected governance arrangements. This sets out a detailed specification for the anticipated Stewardship Bodies, taking into account what the body will be expected to be transferred by way of assets.

The additional wording (in relation to scenario 1 above) sets out that retention of assets by the initial site owner/ developer is not expected and, where transfer occurs, where assets are expected to be transferred to. The nature of the Charter is that it does not incorporate enforcement powers, but sets out the expectations of the partners in relation to stewardship outcomes. Whilst, despite the clearly anticipated asset transfer arrangements set out in the Charter, owners/ developers may

determine that retention or other transfer arrangements are appropriate, it is not considered that further amendment of the Charter in respect of this is necessary.

#### **Recommended amendment to content of the Charter**

No amendment proposed.

#### **Scenario 3**

The level of local representation within the stewardship organisation is low or nil;

#### **Commentary of content of Charter and other controlling mechanisms**

Principle 4 of the Charter sets out the anticipated arrangements with regard to governance. Para 4.7 is specific with regard to the requirement for local community representatives. Following from the Charter, it is anticipated that s106 Agreements relating to individual sites will also potentially identify the representative structure of governance arrangements to be implemented.

It is acknowledged that ensuring the necessary willingness of local community reps to be involved within governance arrangements is not necessarily within the control of the owners/ developers of sites. Para 4.7 does make reference to the potential for financial remuneration in order to make governance roles attractive to community representatives.

Other steps could also make roles of this nature attractive such as the timing and locations of meetings, flexible meeting arrangements and possible assistance with other responsibilities that potential community reps may have. It is recommended that further wording is inserted in this para to reflect those possibilities.

#### **Recommended amendment to content of the Charter**

**Additional wording to the second sentence in para 4.7 as follows:** In order to make the Shadow/ Advisory Body and subsequent Stewardship Body accessible for local community reps, consideration should be given to remuneration for their time **and other arrangements that would make such roles attractive.**

#### **Scenario 4**

The stewardship organisation seeks to charge excessive service charges or undertakes robust non-payment enforcement action;

#### **Commentary of content of Charter and other controlling mechanisms**

Financial matters are the subject of Principle 5 of the Charter. In particular, para 5.7 refers to the need for service charges to be enforced equitably, without impacting occupancy, that charges should be transparent and represent value for money.

Community and Local Authority representation within the governance arrangements will be acting with those objectives in mind. In addition to controls of that nature the role, nature and extent of service charges is subject to greater scrutiny nationally and may be subject to additional legislative control in the future.

Whilst it is understood that the content of the Charter cannot necessarily preclude service charging arrangements that are not in conformity with it, no case could be made out that the Charter supports arrangements that are not fair and reasonable. It is not considered that further amendment to the Charter is necessary to clearly convey the position on this matter.

#### **Recommended amendment to content of the Charter**

No amendment proposed.

#### **Scenario 5**

There is no, or limited community collaboration and co-design in the delivery of assets.

#### **Commentary of content of Charter and other controlling mechanisms**

This issue is one of the main themes of the Charter, set out from the beginning and introduced in Principle 1. More detail on the expected approach is set out in Principle 2. Principle 3 refers to the arrangements for collaborative community development projects as well as asset design.

Governance arrangements are expected to support this collaborative approach and this should be further enabled through the representative governance arrangements.

At various stages through the stewardship development and delivery process then there are actions that should be undertaken demonstrating and commencing the collaborative approach to the design and delivery of assets.

Given the strong thread of this issue through the Charter as it stands, it is not considered that further amendment is required.

#### **Recommended amendment to content of the Charter**

No amendment proposed.

#### **Summary and Conclusion**

This scenario testing results in two further amendments to the draft Charter as set out above. This first introduces new wording at para 2.11 of the document clarifying the expectation that assets delivered as part of the development will be transferred to a single Stewardship Body. The second, an addition to para 4.7 further addresses steps that could be taken to encourage the appointment of local community members as Stewardship Body representatives.

No further amendments are proposed to the Charter as a result of this exercise. The Charter is not a legally binding and enforceable document. It seeks to set out high level principles to be achieved as part of the stewardship arrangements implemented for development sites coming forward. Scenario testing needs to be applied in this context therefore and, appropriately, where the Charter expressly seeks outcomes that this scenario testing exercise has explored, they should be seen as sufficiently addressed in the Charter.