



Ground Rent Estates 5 Limited

Strategic Business Plan

April 2023 to March 2028

6th February 2023

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1. Introduction

Ground Rent Estates 5 Limited (“GRE5”) is a company which is 100% owned by Slough Borough Council (the Council). GRE5 owns the freehold lease of Nova House, a block of 68 apartments 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.

Nova House failed flammability tests in 2017 following the fire at Grenfell Tower. Further survey work then revealed significant defects with the compartmentation within the building and additional structural defects were identified in late 2022.

GRE5’s core activities are the collection of ground rent, freehold extensions and management of some services at Nova House. Its income and costs are approximately £15k per annum and it has very limited options in terms of raising finance as it has minimal assets and value.

In 2018, the Council approved the acquisition of 100% of the share capital of GRE5 for £1 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.

Whilst the scope of works was unknown at that stage, costs were anticipated to be less than £10m and it was assumed that any costs would be recoverable following a legal claim.

Interim fire safety measures were put in place, and continue to be in place, in the building to ensure the safety of residents, pending the completion of remediation works. These have included a high-quality heat detector system, the presence of a 24-hour waking watch and immediate evacuation procedures in the event of fire. All measures continue to be assessed on an ongoing basis in conjunction with the Royal Berkshire Fire and Rescue Service (RBFRRS).

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 has been delayed due to covid restrictions and additional tests and surveys that were completed in FY20/21 and again in FY 22/23, which identified a range of defects and technical issues.

Following the removal of the cladding, several structural issues were identified relating to the Spine Beam, bracing to the building, shims and column connections. This resulted in the halt of the cladding replacement whilst SUR and its building contractor, Morgan Sindall, made assessments and provided remediation options for the structural issues. The structural issues will need to be remediated before the cladding and balconies can be replaced.

The main phase of works is now expected to be undertaken during 2023 and 2024 with completion of the project forecast for Q3 FY24/25.

In FY21/22, the Council introduced a range of changes to strengthen governance, management, oversight, decision making and reporting. This included the recruitment of new GRE5 directors, new shareholder function arrangements, a new Senior Responsible Officer (SRO), a Council project manager and improved risk and financial reporting arrangements.

This Business Plan sets out the key strategic, operational and financial matters for GRE5 and is for a 5-year period from April 2023 to March 2028.

2. Strategic Aim and Objectives

2.1 Strategic Aim

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.

2.2 Strategic Objectives

The strategic objectives of GRE5, all of which support its strategic aim, are 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. Key Activities

GRE5 continues to consider its options in relation to future activity on a regular basis, especially in light of the additional structural issues, associated increase in costs and cashflow requirements due to the revised dates associated with the legal claim. Three key options are available to the company.

Option 1 – Cease all works now

The revised works programme has now been fully costed based upon the structural defects. All activity could be stopped now and continued following the outcome of the legal claim however GRE5 will be required to undertake these works irrespective of the legal outcome. The timescales and monetary amounts associated with the legal claim remain uncertain at this stage however Counsel has advised that the court case is now likely to Summer 2024 at the earliest due to court schedules. Mediation may take place before Summer 2023 however this is dependent upon Allianz, the warranty provider, electing to engage in mediation proceedings.

This option has been discounted for several reasons. Nova House would remain covered in the existing temporary membrane and scaffolding which is intended to be a short-term measure. Safety and fire issues associated with the building cannot be remediated, including cladding replacement, until the structural issues are addressed. Stopping the works programme would still result in ongoing costs associated with ongoing waking watch costs, additional legal costs due to potential leaseholder compensation claims, scaffolding costs, project management time etc. There is a risk of enforcement action and additional measures being required by RBFRS. The current membrane on the building is temporary and RBFRS may therefore require steps to be taken to ensure the safety of residents if any further delay in works occurs.

Nova House is classified as a Relevant Building under the Building Safety Act 2022 as it is over 11 metres tall and has six storeys. The Building Safety Act sets out a number of statutory remedies that require building owners to undertake and pay for remediation works for defects in Relevant Buildings. The Act also stipulates the requirement of works arising from the potential spread of fire or structural failure to be remedied in occupied buildings.

In addition, Homes England funding drawn down to date may be at risk of clawback as the project outcomes will not have been achieved. Securing additional grant funding from Homes England may be unlikely under these circumstances. Leaseholder recovery is a complex issue due to the 2022 Act which is still only partially in force and regulations and statutory guidance is awaited. Legal advice is being taken with regards to its application to Nova House and the mix of qualifying and non-qualifying leaseholders. Leaseholder recovery is capped under the 2022 Act for qualifying leaseholders (£10k).

Headlines: no additional Council funding required, no ability to secure additional funding from Homes England, potential delay by at least 18 months pending court case outcome, building with temporary membrane in place and residents living in current conditions for an extended period.

Option 2 – Demolish the existing building and either rebuild equivalent or sell the site as a development site

Due to the additional structural issues and associated costs, demolition has been considered with either 1) rebuilding equivalent accommodation or 2) selling the site for development. However, under this option there would be an obligation for GRE5 to buy out the leaseholders, which would be at significant cost to GRE5, estimated at at least £19m. Leaseholders would be required to agree

that the building was incapable of economic repair and a CPO process could be prolonged and costly, as well as significantly disruptive to the current residents and leaseholders. This would also be a significant undertaking requiring additional resources and significant additional Council resources.

This is a high-risk approach. The value of any works to date (£15.8m as reflected in the table below) would be abortive if the building were to be demolished. The funding received from Homes England may also be clawed back (total £9.2m grant). There may also be further costs in relation to the contracts currently in place with key contractors.

Demolition costs are expected to be c £1m and rebuild costs at least £25m based upon BICS rates with a uplift to reflect current market conditions. The project would also require additional project management and additional internal GRE5 resource.

With significant additional costs associated with a demolition and rebuild, this is not a cost-effective option. The overall cost exposure to the Council under this option will be significantly more than under Option 3 and GRE5 would require additional cashflow support (loan facility) from the Council.

Headlines: Abortive costs £15.8m (not recoverable from insurance claim), demo and rebuild £26m, additional project mgt costs, insurance settlement capped at rebuild (no demo), potential grant clawback from Homes England, costs/time to agree to acquire from leaseholders, requirement to buy-out leaseholders (value unknown but estimated at £19m plus).

Option 3 – Proceed with updated works programme

Under this option, works on Nova House would continue in line with the current programme timetable and in advance of the settlement of the legal claim (at the earliest of summer 2024 if this case goes to court or a possibility of summer 2023 if this can be settled via mediation).

The work programme and cash flow requirements would continue to be reviewed and key milestones would be incorporated into the work programme to monitor progress, costs, variations and risks. e.g. key milestones would include at the end of the structural works contract/before commencement of the Development Contract for the main cladding works, at the medication date (if this route is taken) and upon draw down of the new loan facility (which is expected to be in June 2023). The Council's shareholder function would continue to receive monthly progress reports including consideration of key issues, variations to the works programme, funding review, cost review and loan facility drawdown requirements.

The Cabinet Committee now has responsibility for oversight of the Council's companies and decisions that are reserved to Cabinet, will be reported to full Cabinet. Directors are keen to attend member meetings to share information on decision-making, risks and scenario testing.

Total overall costs are now expected to be in the £28.4m compared to the estimate of £19.6m at the end of March 2022. Costs to date (up to the end of March 2023) are estimated to be £15.8m which includes the removal of all cladding, new protective temporary membrane, a range of essential fire and safety measures (including waking watch services and fire doors) and legal, financial and project management costs. The cost changes are set out in the following table.

£m	Previous total cost estimate (March 22)	Current total cost estimate (as at March 2023)	Costs to date As at March 2023
1. Ongoing general costs - legal, waking watch, project management costs etc.	5.5	6.0	4.7
2. Development Contract – fire and safety works	10.6	17.0	10.0
3. Development Contract – additional structural works	-	4.0	0.4
4. External works - other	0.3	0.8	0.7
5. Internal works	3.3	0.6	-
	19.6	28.4	15.8

The fire and safety works contract (cost item 2) has increased by £6.4m due to:

- additional costs on the balcony structures. When the balconies were removed, it was discovered that additional work would be required to reinstate them including secondary steel structures;
- the discovery of additional structural issues with the building, which need to be addressed before the cladding can be replaced;
- the delay in the programme, which has resulted in extra costs due to additional preliminary costs, additional scaffolding costs, the cost of keeping the site safe and secure and inflationary impacts; and
- changes in working practices required due to the structural deficiencies in the building. Based on structural engineer's advice, the building is unable to support the scaffolding and hoists on which the original workplan was based. The new workplan requires additional specialist lifting equipment and has had an impact on work sequencing.

The scope of works and costs as part of the Development Contract have been independently reviewed by Artelia in their role as Employer's Agent and the Independent Certifier and Cushman & Wakefield on behalf of Homes England as part of the grant funding claim process. Assurances have been obtained in relation to the revised specification and costs.

The new scope of works have been assessed as being critical to the completion of the works programme. The cladding cannot be replaced until the structural issues have been resolved as the structure is not sufficiently robust to support the new cladding. Advice has been provided by Arup and Morgan Sindall, based on the extensive surveys and work carried out to date, and verified by the Consultant Engineer working on the insurance claim.

The financial and funding implications of this are set out in more detail in Section 6 of this Business Plan.

Upon completion of the works, the Council will seek to exit from the ownership of Nova House, either through a sale of its shareholding in GRE5 or through selling its freehold interest in Nova House.

Conclusion

Option 3 is the least cost option compared to Option 2 and would require a lower level of loan facility to be provided by the Council. The short term financial risk associated with Option 1 is much lower than the other options as no additional loan facility is provided. However GRE5 would be required to complete the works after a potentially considerable delay, or face legal action. Under Option 2, costs to date of £15.8m would be lost, and leaseholders would need to be bought out of their properties prior to demolition which could cost at least £19m and could take a considerable amount of time.

Option 3 has the lowest financial risk, to the Council compared to Option 2 and will enable the works to Nova House to be completed in the quickest timescale and with the least disruption to occupiers. The cost of delay to the project is set out in section 3.1 below.

The costs for Option 3 have already been fully costed and based upon considerable structural investigations. The costs associated with Option 2 are highly uncertain and are likely to increase given economic conditions and inflationary pressures.

3.1 Costs of Delay

The works at Nova House are currently on hold pending the approval of the additional loan facility by the Council. The cladding cannot be replaced until the structural defects are addressed and additional funding is required to enable this work to progress in advance of any insurance receipt.

Any further delay to the programme will have several impacts, including:

- **Timing of additional Homes England funding** – Homes England are unlikely to agree to any further grant funding without Council approval of the additional loan facility. It is anticipated that additional Homes England funding will be approved should the Council approve the loan facility.
- **Additional costs** – any delay results in increasing costs for the project. The additional works relating to the structural deficits were confirmed at the end of 2022 and the current timing represents the earliest opportunity to report to the Council on the potential funding impact. The cost impact of an additional month's delay is set out in more detail below.
- **Impact on occupiers/leaseholders** – the GRE5 directors have worked hard to build the trust of occupiers/leaseholders through the works period. A further delay would extend the need for the temporary membrane on the building and this may have an impact on the relationship between GRE5 and the occupiers/leaseholders. The GRE5 Directors will need to manage this if a delay is incurred.

Cost impact

The cost impact of a delay in Nova House is set out below (per month):

Cost category	Description	Cost pcm £'000s
Waking watch costs	Costs of providing 24 hour waking watch at Nova House.	25
Advisor costs	Monthly costs of professional support, eg Employer's Agent, Independent Certifier, Clerk of Works, Fire Safety Advice,	22
Time extension costs under the current Development Contract	Extension of time costs are recoverable under the development contract. These include additional insurance costs, project management costs and inflationary impacts.	80
Contractor preliminary costs	Contractor staff costs, site security and hire of onsite accommodation.	16
Subcontractor preliminary costs	Subcontractor staff costs, site security and hire of onsite accommodation.	5
Scaffolding costs	Hire and maintenance costs of scaffolding.	5
GRE5 Director costs	Additional month of GRE5 director costs.	20
Council costs	The delay to the programme will also extend the time until the Council can exit from GRE5. This will result in additional Council resource being needed to support the company, including financial and general company support.	17
		190

3.2 Key Activities Based on Selected Option

A summary of the key activities and milestones are included in the table below:

Activity	Description/Target Outcome	Target Completion Date
Cladding panel replacement work	The completion of all replacement cladding works and the replacement of the balconies to Nova House. This will include new secondary steels to support the replacement of the balconies to the building. It will also include the cladding of the external fire escape stair as a fire protection measure due to the lack of adequate fire glazing in adjacent flats.	ACM cladding removed in January 2022. Completion of reinstallation - October 2024
Structural/Stability Remedial Works	The remediation of four main stability defects: <ul style="list-style-type: none"> Internals lateral bracing – This needs to be fitted to the internal core prior to other works being carried out. Spine Beam – The undersized beam at 4th floor level requires propping to the two floors below, this will follow the lateral bracing works. 	September 2023

Activity	Description/Target Outcome	Target Completion Date
	<ul style="list-style-type: none"> • Shims – There is a lack of connection between the level four slab, this needs remediating as part of the stabilisation works. • Splice defects – There are numerous locations where the steel connection/splice details do not meet either building regulations or safety testing on the welds. These need to be remediated prior to the replacement cladding being installed. <p>In addition to the above stability defects, there are several smaller structural defects that have been identified as part of the survey and investigation works. These include:</p> <ul style="list-style-type: none"> • Timber packers being used where they breach a fire compartment. • Loose bolts at connections. • Poor welded joints. • Defects in the partitions. <p>Satisfactory mitigation measures are in place.</p>	
Steelwork fire protection/sprinkler	<p>Areas of the exposed steel frame have been found to be deficient in fire protection. The effect on the steels in the event of a fire is to be mitigated by the installation of a sprinkler system. The mitigation works will need to be implemented to the satisfaction of the fire officer.</p> <p>Satisfactory mitigation measures are in place.</p>	December 2023
Internal works	<p>Works to the main staircase compartmentation defects have been carried out, along with the replacement of flat entrance doors to meet fire protection standards. Further works include compartmentation defects within the communal areas (main escape routes) and installation of the sprinkler system.</p> <p>Further defects have been identified within the flats themselves. Remediation of these defects would be extremely disruptive to residents, and potentially not fully extensive due to access constraints. Therefore, it is proposed that these are also mitigated by the introduction of the sprinkler.</p>	December 2023
Building management	<p>There will be ongoing leaseholder and tenant liaison through regular leaseholder and tenant meetings.</p>	Ongoing
Funding	<p>To date GRE5 has secured a £9.2m grant from Homes England to fund eligible cladding works and a £10m loan from the Council to support the cashflow of the works and ineligible costs. An insurance claim has been submitted and other sources of funding are being investigated in order to allow the identified structural works to be undertaken. Additional Homes England funding is being sought for the structural works (c. £4.0m), as well as additional loan funding (£5.0m) from the Council to allow works to proceed prior to any receipt from the legal proceedings with the insurer and resolution of discussions with Homes England.</p>	March 2023

Activity	Description/Target Outcome	Target Completion Date
	Legal advice is being sought as to the position regarding recovery of costs from leaseholders following the introduction of the Building Safety Act 2022.	
Business As Usual Position	All cladding and remediation works completed and a return to the business as usual position of solely providing building management services to Nova House.	October 2024
Exit	<p>Identify the most appropriate exit strategy for the shareholder. All the works will need to be completed and the management will need to be up to date and liabilities settled. Cladding certification will be required and remediation works completed to a standard to provide confidence in the building. A robust and satisfactory fire risk assessment following the works will be necessary.</p> <p>May include sale of GRE5 Ltd and/or sale of freehold lease. Leaseholders to be consulted in line with statutory requirements.</p>	<p>Options and solution identified – FY 23/24</p> <p>Implemented in FY25/26</p>

4. Governance

The governance structures in place for GRE5 are as follows:

- **Director and Shareholder representative meetings** – Director and Shareholder representative meetings occur monthly due to the level of risk in the project. This forum allows the company to keep its shareholder up to date on key actions, risks and the financial position of the project. It also enables the Council to make swift decisions within its delegated authority;
- **Board of Directors** – the Board of GRE5 meets on a monthly basis to review the progress of the project, the current financial position and key risks and issues;
- **Progress meetings** – the project team meets on a weekly basis to review progress and agree key activities for the week;
- **Service Level Agreement** – the company has a Service Level Agreement with the Council for the provision of company secretarial and financial support; and
- **Council reporting and oversight** – regular reporting to Cabinet Committee and at least annual reports to Cabinet to approve annual business plan.

4.1 Board of Directors

The Board of Directors is required to:

- manage the day-to-day business activities and finances of GRE5 in accordance with the Companies Act and the Articles of Association;
- act in the best interest of the company and promote the success of the business;
- undertake legal responsibilities including preparing annual accounts, tax returns and company records;
- provide confidence to RBFRS that works will be carried in an appropriate and timely manner;
- carry out all urgent mitigating works as required as quickly as possible and with minimum disruption to residents;
- monitor progress and review the SUR/Morgan Sindall contract for the cladding removal and replacement and additional structural works;
- ensure proper management of the building;
- monitor and review the progress with the Insurance claim with Allianz;
- recover costs from insurers, leaseholders, and other parties as appropriate;
- obtain grants where possible including from Homes England;
- update the Business Plan and report to shareholders;
- ensure value for money is a key part of any assessment in relation to the works;
- review monthly income and expenditure and manage the financial position of the company;

- work with the shareholders on internal and external audits;
- review and understand the organisations risk profile and regularly review the risks and risk appetite; and
- undertake a skills audit and review ongoing training requirements.

The company has two Directors; Neil Simon and Martin Johnson (appointed in November 2021).

4.2 Council as Shareholder

GRE5 is a separate, distinct legal entity from the Council. However, the Council retains a degree of control through the ownership of all shares in the company. These shares, along with the reporting and governance structures in place give the Council the necessary means to exercise appropriate levels of control. As sole shareholder, the Council has the ultimate sanction of either removing the Board Members and appointing replacements or, ultimately resolving to wind up the company.

The relationship with the Council is primarily governed by the following:

- **the Articles of Association and Shareholder Agreement** setting out reserved functions – the Articles of Association and Shareholder Agreement set out the rights and obligations of the Council as shareholder. These collectively set out the reserved matters where GRE5 needs to have the approval of the Council to undertake certain actions. The existing Shareholder Agreement has been updated and will be approved by Cabinet Q1 FY 23/24.
- **the Loan Agreement** - a loan agreement was put in place in August 2022 for a loan of £10m from the Council to GRE5 to allow the required works to progress.
- **the Service level Agreement** – the Service Level Agreement sets out the services provided to GRE5 by the Council in order to provide transparency in relation to the use of the Council’s staff and facilities in support of the company.
- **Director contracts** – each Director has a contract which clearly sets the responsibilities of a Director, including their relationship with the Council.

5 Key Business Risks

A detailed risk register for GRE5 is maintained and updated monthly by the Board of Directors and the Project Team. At each risk register review meeting the impact and probability of each risk are scored and the mitigations reviewed and assessed. A summary of the key risks and mitigations from the Highlight Report presented at each Board meeting is as follows:

Risk Title	Description	Risk Category	Mitigation
Additional variations making the project cost inefficient	Costs have increased significantly since the start of the project due to the additional structural works required and delays to the project. There remains a risk that costs could increase further.	Very High	Monitor the project carefully and continue to update the project cashflow monthly. Work with the Council, contractors and all parties to mitigate cost, risk and spend on all areas.
Further defects and associated costs	Further design, delays and remedial costs are added to the project.	Very High	Measure design and costs against requirement for remedial to take place by ongoing support from the design team. Carry out stringent tipping point/cost exercises.
Building is not safe – concerns for the safety of residents	Additional structural issues have been identified with the building which need to be remedied before the cladding can be replaced.	Very High	The structural safety of the building has been reviewed by ARUP and there is no immediate risk to residents. The situation is being monitored in order that any change to this status will be quickly identified.
Unable to repay loan	GRE5's ability to repay the loan to the Council is dependent on many factors including cost management, further structural issues, outcome of legal claim, potential GFA clawback and leaseholder recovery of costs.	Very high	Regular detailed financial reporting and cash flow planning Robust management of legal claim including engagement with GRE5's legal advisors and range of technical advisors Maintain a strong working relationship with Homes England including transparent and regular dialogue re the legal claim, additional structural costs and clawback mechanisms.
Leaseholders non-compliant with regards to repayment	Non repayment from leaseholders will impact the overall cashflow position of the company and may result in an inability of GRE5 to repay its loan.	High	Legal advice on the impact of the new Safety Bill, given new cost liability measures for leaseholders. Ongoing engagement with leaseholders including early discussion re the implications of the Safety Bill following legal advice. Creation of communication plan with clear wording.

Risk Title	Description	Risk Category	Mitigation
Legal claim is not successful, lower than anticipated or delayed even further	The legal claim is ongoing, with a Case Management Conference scheduled for March which will confirm the date for court proceedings. There is therefore still a risk that the claim is not successful, delayed or lower than expected.	Medium	Although timing remains uncertain, Allianz's legal team have accepted responsibility for the cladding element of the claim and have made a small (£0.2m) payment towards GRE5's legal costs. Timing and final quantum of the final claim amount are unknown at the present time though and will impact the final cost exposure of GRE5 and the Council, as sole shareholder.
No further funding obtained from Homes England	No further funding is secured from Homes England for the additional structural works. This will result in a funding gap for the Project.	High	Discussions with Homes England to date have been positive, and a variation proposal is being drafted for submission in Q4 22/23. Maintain regular engagement with Homes England.

6. Financial Projections

6.1 Income and Expenditure Account

There are currently two principal sources of income from Nova House:

- the annual service charge and reserve funds – to cover the management of the building; and
- the ground rent.

These charges are payable by the leaseholders to GRE5. Invoices for the service and reserve charges are issued by the managing agent (Red Rock Management) and collection of outstanding charges is handled by JB Leitch solicitors. The income from the service and reserve charges are held by Red Rock in trust accounts and used for the provision/maintenance of communal services for Nova House e.g. concierge, minor repairs, cleaning etc.

Invoices for the ground rent had been issued by the previous parent company of GRE5 and collection of unpaid ground rent again handled by JB Leitch. The ground rent is collected twice a year – 1st January and 1st July – with invoices normally sent out in May and November. Redrock has been appointed to collect the ground rent. Annual income and operating costs are c£15k per annum.

6.2 Cashflow

A forecast cashflow for the works has been prepared and this is updated monthly for discussion at both the Board and Shareholder meetings. It is also used as a planning tool, allowing scenarios to be run for different assumptions in terms of changes to costs and funding sources.

The current baseline scenario assuming no income from the insurance claim, leaseholders or other sources within the forecast period is as follows:

£m	Up to FY21/22	FY22/23	FY23/24	FY24/5	Total
Costs					
Ongoing Costs - Legal, Waking Watch etc.	3.5	1.2	0.9	0.4	6.0
Development Contract - Cladding	7.0	3.0	3.6	3.3	17.0
Development Contract - Additional Structural Works	0.0	0.4	3.5	0.0	4.0
Internal works	0.0	0.0	0.6	0.0	0.7
Other costs	0.5	0.1	0.1	0.0	0.7
Total Costs	11.0	4.8	8.9	3.7	28.4
Funding					
Secured HE grant funding **	-1.7	-5.4	-2.2	0.0	-9.2
SBC loan facility*	-9.2	1.2	-3.1	-3.7	-14.9
HE grant funding for structural works – not yet agreed**	0.0	-0.4	-3.5	0.0	-4.0
Payment from Allianz (Ring fenced for legal costs)	-0.1	-0.2	0.0		-0.2
Leaseholder contribution – not yet agreed***	0.0	0.0	0.0	0.0	0.0
Net position	0.0	0.0	0.0	0.0	0.1

*Note that the Council's loan is required to be paid back by July 2026.

**Note that the Homes Funding may be subject to some clawback. Any clawback would be agreed with Homes England following the outcome of legal proceedings

*** excluded for financial planning purposes as not yet determined, but a plan will be developed for recovery

6.3 Sources of Funding

6.3.1 Homes England Grant

During FY 21/22, the Council and GRE5 successfully agreed grant funding of £9.2m from Homes England for eligible development costs. The Grant Funding Agreement (GFA) has been agreed with all parties and has been signed by GRE5 and the main contractor. All Conditions Precedent (CP) have been signed off and grant drawdown requests are being processed on a monthly basis. It is anticipated that the entire £9.2m will be drawn down by December 2023. To date (December 2022) £6.2m has been drawn. Discussions continue to take place with Homes England with regards to changing the scope of eligible costs which may result in further grant funding being made available to GRE5 for the additional structural works. This will reduce the financial risk to the Council.

As noted below, should the insurance claim be successful, there may be a requirement to repay part or all of the Homes England grant. This would be agreed with Homes England following the specific outcome of the case.

6.3.2 Insurance Claim against the building's warranty provider

GRE5 is currently engaged in legal proceedings with the building's warranty provider, Allianz. The date of the mediation has not yet been agreed and is subject to receiving some additional project data and the availability of legal Counsel, but current estimates are for mediation proceedings in the first quarter of FY23/24. A Case Management Conference is scheduled for March 2023. At this conference a court date will be set, although Allianz can come forward to mediate at any time up to the court date (expected to be Summer 2024 at the earliest). The Particulars of Claim have been updated to include the increased costs due to the additional structural works and associated delays. Given the sensitivity of the legal proceedings no further information will be included in this Business Plan.

6.3.3 Council Loan and Parent Company Guarantee

In July 2021, the Council approved a loan facility to GRE5 of up to £10m to meet its short-term cash flow requirements, pending the:

- outcome of the legal proceedings;
- approval of the grant funding agreement with Homes England;
- completion of works to determine total final costs; and
- recovery of monies from leaseholders.

The £10m loan facility agreement was signed and sealed in August 2022. The loan facility agreement formalises a loan facility that was originally approved by the Cabinet in 2019 but was not approved in accordance with the Council's Investment Strategy. The Council has funded GRE5 costs to date; costs have been included in a separate capital programme cost centre on the Council's balance sheet. These costs will be recharged/passported to GRE5 so that the loan facility is operational.

A variation to the loan agreement will be recommended to Cabinet in March 2023. If approved, this will increase the loan facility to £15.0m. This will require an extension to the current facility rather than a new facility agreement. The loan will require Council approval in line with the Council's delegations.

In FY 21/22, the Council entered into a Parent Company Guarantee (PCG) to enable the works under the Development Agreement to be completed. The majority of the Development Agreement costs are considered to be eligible costs under the terms of the Homes England GFA but there is a shortfall in the region of £1m for the cladding works which would be covered under the terms of the PCG should GRE5 be unable to pay the total costs under the Development Agreement. The shortfall is likely to

increase depending on the final position under the funding variation being discussed with Homes England. It should be noted that the Council is not a party to the GFA or the Development Agreement.

The peak loan facility requirement will be dependent upon the agreed GFA drawdown schedule and any impact on the accrual of interest on the Council loan facility. The outcome of the legal case and timing of any associated financial payments will also impact upon the peak facility requirement.

6.3.4 Leaseholder contribution

Should the legal claim be unsuccessful, the maximum financial exposure to GRE5, and therefore the Council as 100% shareholder, is projected to be up to £15.0m (£28.4m costs less £9.2m secured Homes England grant and an assumed £4.0m additional grant, and monies received from legal proceedings to date of £0.2m).

Alternative funding strategies are being considered to meet any funding shortfalls, including potential recovery of costs from leaseholders. A tribunal determined that leaseholders, and not the freeholder, were liable for waking watch costs, however the Building Safety Act 2022 has superseded this tribunal decision. This contains detailed provisions as to what costs qualifying and non-qualifying leaseholders are liable for. GRE5 is currently seeking advice as to the interpretation of the Building Safety Act 2022 and its implications on the recovery of any costs from leaseholders. An assessment of the number of qualifying and non-qualifying leaseholders in Nova House will be required and the amounts that could be recharged to each group as part of a recovery strategy.

6.3.5 Other

Other avenues being explored are the potential, under the Building Safety Act 2022, to progress a claim against the developer of Nova House via their holding/ultimate parent company. Initial investigations suggest that there are significant enough assets held by the company to make this viable. As such an initial application to the courts is being prepared in order to further this. On receipt of a response, an assessment will be made of anticipated legal costs in pursuing this claim against the likelihood of success and value of any claim.

In addition to this there may also be an opportunity to make a claim against the manufacturer of the cladding for the costs in relation to the waking watch (that are not eligible under the grant funding or insurance claims). Following reviews of the Building Safety Act 2022, Fenchurch Law have issued a pre-action letter in relation to the cladding manufacture having a potential liability, in respect to recovering the costs for the waking watch. Fenchurch Law have advised that on receipt of a response they will give an indication as to the likelihood of success and also likely costs of pursuing this further.

Consultation with Homes England will be required on the decisions on both the above points as there is an expectation under the grant funding agreement that all means of recovering the monies from those responsible are fully explored.