

Appendix D – Closing Down Process

Options for Sixty Bricks closure

There are two bases for closing down Sixty Bricks, i.e. a solvent or insolvent winding down. It is assumed that a solvent winding down process will be followed, for which there are three options:

- a) Voluntary dissolution and striking off
- b) Retain as a dormant company
- c) Voluntary Liquidation

2. Voluntary dissolution and striking off

2.1 The procedure for voluntary dissolution and striking off is governed by sections 1003-1011 of the Companies Act 2006 and is as follows:

- a majority of Sixty Bricks' directors must pass a resolution to apply to Companies House to have the company struck off the register.
- the striking off application must be completed and signed by the majority of the directors.
- the application form must be sent to Companies House together with a nominal fee.

2.2 Within seven days of sending the application form the directors must inform the following persons:

- a) members of Sixty Bricks (i.e. only the Council);
- b) all creditors of Sixty Bricks, including existing and prospective creditors, whether they have outstanding, contingent or prospective liabilities;
- c) employees of Sixty Bricks;
- d) managers or trustees of any employee pension fund; and
- e) any directors of Sixty Bricks who have not signed the form sent to Companies House.

2.3 This obligation continues until Sixty Bricks is struck off. Therefore if, for example, after the application form has been submitted a new director (or employee, creditor etc.) has been appointed (or equivalent), then a copy of the

form must be given to that person within seven days of the appointment / employment etc.

- 2.4 Companies House will advertise the proposed striking off in the London Gazette so that interested parties have an opportunity to object.
- 2.5 If in the period of three months no objections have been received, Sixty Bricks will be struck off the register and dissolved on publication of a further notice stating this in the London Gazette.
- 2.6 There are certain conditions that must be met before this voluntary dissolution procedure can be used and these are that, in the previous three months, Sixty Bricks has not:
 - (a) traded or otherwise carried on business;
 - (b) changed its name;
 - (c) made a disposal for value of its property or rights which it held for trading or for carrying on business (for example, office premises or vehicles); or
 - (d) engaged in any other activity unless it was necessary or expedient for the purposes of:
 - i making an application for striking off or deciding whether to do so;
 - ii completing the affairs of Sixty Bricks; or
 - iii complying with statutory requirements.

3. Dormant company

- 3.1 Rather than dissolving and striking off Sixty Bricks from the register the Council might want to keep it as a dormant company in order to be able to revive it in the future. This is, in effect, a simple process of mothballing the company but it does require some ongoing regular administration which need to be understood.
- 3.2 In order to register Sixty Bricks as a dormant company there are a number of steps that must be followed including that:
 1. Sixty Bricks must have ceased to trade;
 2. HM Revenue and Customs (HMRC) is notified (usually through a final Corporation Tax return);
 3. Companies House is notified;

- 3.3 There are ongoing statutory compliance requirements for dormant companies. Annual dormant accounts and an annual confirmation statement (previously known as an annual report) must be filed at Companies House.

4. Voluntary Liquidation

- 4.1 Voluntary liquidation is lengthy process, which involves the appointment of liquidator who will control the distribution of assets. Where, as in the case of Sixty Bricks, the Council is the sole shareholder, any assets owned by Sixty Bricks would be returned to the Council, in which case the appointment of a liquidator is unnecessary.

5. Practical issues

- 5.1 The Council as the sole shareholder of Sixty Bricks has the ultimate right to direct Directors to take action and appoint and remove all directors.
- 5.2 There will be a number of practical matters that will need to be managed:
- 5.2.1 Employment matters such as any TUPE transfer of staff and related pension implications and redundancy matters;
 - 5.2.2 Dealing with Sixty Bricks' ongoing contracts and other arrangements with third parties (e.g. novations or assignments);
 - 5.2.3 Loan arrangements and working capital;
 - 5.2.4 Transferring ownership of any assets in Sixty Bricks' name;
 - 5.2.5 Dealing with insurances; and
 - 5.2.6 Closing bank accounts.
- 5.3 It is estimated that the winding down process could take approximately 3-6 months, at an estimated cost of £150k in relation to advisory and administrative fees.