



## **Future of CLASP and Scape System Build Ltd**

### **SUMMARY**

- 1.1 The Consortium of Local Authorities Special Programme (known as CLASP) was established in 1957. It is now a consortium of seven local authorities, who at its inception were involved in the design and maintenance of school buildings that were built to the CLASP standard design. The Consortia allowed the authorities to work together to provide best value in maintaining the buildings going forward.
- 1.2 With new legislation in 2003, which enabled local authorities to create contracting organisations, it was agreed that six of the authorities, within CLASP, would create a contracting authority called Scape System Build Ltd, (SSBL) which would provide for the collaborative work of CLASP to continue, but also to extend that support across the country to the many other authorities that had used the CLASP system.
- 1.3 CLASP and SSBL are proposing to make changes to each of the organisations. It is proposed that CLASP is dissolved, and the Intellectual Property Rights passed to SSBL, and that SSBL company structure is amended, to enable the company to better respond to changing markets.
- 1.4 Following a CLASP Annual General Meeting, in October 2013, the AGM decided to recommend to its constituent members to:
  - (a) wind up the CLASP consortium;
  - (b) enter into an agreement to assign the CLASP IP to Scape; and
  - (c) return the CLASP reserves to the Consortium members (subject to making arrangements for residual pension liabilities).
- 1.5 The formal consent of each of the CLASP consortium members is now required to give effect to that decision.
- 1.6 In relation to SSBL, at a Board meeting in January 2014, the Board Directors identified the need to obtain the necessary approval from each of their respective authorities in moving to a new group structure. Further details of what this entails are set out in the supporting information of this report.
- 1.7 In order to facilitate timely decision making, this report recommends delegating the Council's shareholder decision making responsibilities to the Council's appointed shareholder representative, in consultation with the Chief Executive, the Strategic Director of Resources and the Director of Legal and Democratic Services.
- 1.8 Subject to the approval of the recommendations in this report there will also need to be changes to the Council's approved list of appointments to outside bodies, and

approval is sought to do this as part of this report.

## **RECOMMENDATION**

- 2.1 To approve the dissolution of the Consortium of Local Authorities Special Programme, CLASP, and acceptance of the Council's share of the reserves.
- 2.2 To approve the transfer of the Consortium of Local Authorities Special Programme intellectual property rights to Scape System Build Ltd.
- 2.3 To approve the transfer of the shares the Council holds in Scape System Build Ltd to Scape Group Limited, and to acquire one share in Scape Group Limited.
- 2.4 To delegate authority to the Council's shareholder representative, in consultation with the Chief Executive, the Strategic Director of Resources and the Director of Legal and Democratic Services, to make any future decisions required in relation to any of the Scape Group companies.
- 2.5 To approve changes to the Council's approved list of appointments to outside bodies, to reflect each of the above recommendations.

## **REASONS FOR RECOMMENDATION**

- 3.1 The CLASP Consortium has remained in existence since 2006, with Nottinghamshire County Council acting as the trustee authority for the Consortium and, at least nominally, acting as the Clerk to the Consortium. In practice its activities have largely amounted to no more than a formal AGM each year, for convenience taking place on the same day as the Scape AGM. The sole purpose of the annual meeting has been to approve the annual accounts, appoint the auditors and agree a modest budget for the following year. The only substantive activity has been the renewal of trademarks by Nottinghamshire County Council in CLASP and Scape related to logos/branding.
- 3.2 CLASP, as an entity, has in reality been dormant since 2006 and the recommendations at paragraphs 2.1 and 2.2 effectively secure a process to formally give effect to that reality.
- 3.3 Recommendation 2.3 represents the first step in giving effect to the Scape Group proposals, which are set out in more detail in paragraphs 4.13 – 4.14 of this report.
- 3.4 In order for future decisions to be made swiftly to ensure that Scape can function effectively as a commercial entity, it is considered appropriate to delegate the Council's decisions as shareholder to the nominated shareholder representative, in consultation with the Chief Executive and the Director of Legal and Democratic Services.

## SUPPORTING INFORMATION

### Proposed dissolution of CLASP

- 4.1 The Consortium of Local Authorities Special Programme (known as CLASP), was formed in 1957 as an unincorporated association of local authorities with the purpose of developing a standardised building system using a component based lightweight steel frame structure.
- 4.2 By the early 2000s, there were seven full member authorities: Nottinghamshire County Council (lead authority), Nottingham City Council, Derbyshire County Council, Derby City Council, Warwickshire County Council, Manchester City Council and Gateshead Council. There were also 40 honorary members, which were able to use CLASP services but did not determine policy.
- 4.3 CLASP was largely self-financing; using income generated from licensing the CLASP building system and maintenance services, but by 2003/4 the opportunities open to it were limited by its structure. The decision was taken to review its building system to bring it up to date, to develop its organisation and to set up a trading company.
- 4.4 Scape System Build Ltd, SSBL, was incorporated in December 2005. The Consortium's company was the first to be formed under the Local Government Act 2003. The full CLASP members (other than Manchester City Council, which fully supported the formation of Scape) were the shareholders, using £450,000 of the Consortium's reserves to purchase shares. The staff carrying out the operational work (other than those who decided to retire) were TUPE transferred to Scape in April 2006 and Scape started trading on 1 April 2006.
- 4.5 SSBL is a company limited by shares, whose shareholders are Derby City Council, Derbyshire County Council, Gateshead Council, Nottingham City Council, Nottinghamshire County Council and Warwickshire County Council. SSBL is, therefore, a local authority controlled company and its principal activity is to procure and manage frameworks for the benefit of the public sector.
- 4.6 The business of CLASP (other than the remainder of the reserves, its intellectual property rights (IP), existing liabilities at the date of transfer and pension liabilities for past employees) were transferred to SSBL, through an asset transfer agreement. SSBL was granted a non-exclusive licence of the Consortium's IP rights (trademarks, copyright in the system design, archives etc.) on the basis that the Consortium wanted to ensure that it retained ownership of the IP, in case SSBL was not successful in the early years. The intention was that SSBL would act as the 'trading company' for the Consortium.
- 4.7 CLASP has remained in existence since 2006, with Nottinghamshire County Council acting as the trustee authority for the Consortium and, at least nominally, acting as the Clerk to the Consortium. In practice its activities have largely amounted to a formal AGM each year; for convenience taking place on the same day as the SSBL AGM. The sole purpose of the annual meeting has been to approve the annual accounts, appoint the auditors and agree a modest budget for the following year. The only

substantive activity has been the renewal of trademarks by Nottinghamshire County Council in CLASP and SSBL related to logos/branding.

- 4.8 SSBL's developing activities, resulted in 2012 in the Consortium varying the terms of the IP licence to give SSBL slightly greater latitude, without having to revert back to the Consortium.
- 4.9 The two organisations have now reached a stage where it is appropriate to consider the longer term future. In relation to CLASP it is being recommended to each of the local authorities that CLASP as an entity is dissolved, and the IP rights passed to SSBL.

#### **Proposed changes to SSBL**

- 4.10 During the nine years of trading SSBL has established itself as a successful business and contracting authority. It now has a number of subsidiary companies and employs around 30 staff. The company directors have considered a number of proposals which look to make changes that will help the company to expand and grow in a sustainable manner in future years.
- 4.11 SSBL currently has four subsidiary companies:
  - (i) Scape Venture Limited;
  - (ii) Scape Reinvest Limited;
  - (iii) Scape Group Limited; and
  - (iv) Scape Limited.
- 4.12 SSBL's directors have approved the proposal to restructure the group so that Scape Group Limited, which currently has no assets or liabilities and does not trade, will act as a holding company for the Scape group of companies. Scape Group Limited could, in the future, employ SSBL's 'corporate' or 'back office' staff, who would provide intra-group services. Scape Group Limited might also own future property assets of the Scape Group.

- 4.13 The proposed group restructure will enable greater flexibility in the future and help the services of Scape grow and mature. The reasons for this include:
- managing a diverse range of services essentially in one company is quite complex and does not give the necessary agility for products and services to grow and develop;
  - from an operational perspective there are dedicated teams that need to manage the products and services under their responsibility. The way that the group is structured currently limits this management process;
  - the products and services will at some point reach maturity, and it will be beneficial for each to act independently as a commercial entity and further develop to reach their full potential.;
  - creating independent entities will also protect the parent company if one part of the business is failing, as the Board could decide to close that subsidiary without it affecting the overall business;
  - retaining SSBL's public procurement activities in a separate corporate entity will ensure that it continues to be a contracting authority, while allowing the commercial parts of the group to develop into other corporate entities.
- 4.14 In order for this to happen, SSBL will have to transfer the share it holds in Scape Group Limited to one of SSBL's shareholders (i.e. the six local authorities) and Scape Group Limited will allot a share to each of the remaining SSBL shareholders. SSBL's shareholders will transfer the shares they hold in SSBL to Scape Group Limited. This will result in the local authorities being the shareholders of Scape Group Limited. Scape Group Limited will be the sole shareholder of SSBL and SSBL will be the sole shareholder of Scape Reinvest Limited, Scape Limited and Scape Venture Limited.
- 4.15 This report recommends that the Council, as a local authority shareholder, approves the transfer of the shares it holds in SSBL to Scape Group Limited, and to acquire one share in Scape Group Limited.
- 4.16 It is also proposed that the Council, as the shareholder, delegates authority to its shareholder representative, in consultation with the Chief Executive, the Strategic Director of Resources and Director of Legal and Democratic Services, to make any decisions required in relation to the Scape Group companies, which would include for example any future restructuring of the Scape Group.

#### **Clarification of Councillor Representative Roles**

- 4.17 Preparing this report has identified an anomaly to the Council's approved list of Appointments to Outside Bodies. The anomaly is that there is reference to a Management Committee for SSBL, but in practice no such committee exists. However CLASP does have a Management Committee and it is believed that when SSBL was established in 2007/08 that this change was not reflected appropriately in the approved list of appointments. As well as the fact that the list should have retained CLASP as an organisation, with the appropriate management committee appointment, the list of outside bodies should have also included a role for a shareholders representative for SSBL.

- 4.18 It is recommended that, subject to approval of the other recommendations in this report that appropriate changes are made to the approved list of appointments to outside bodies.

<b>OTHER OPTIONS CONSIDERED</b>
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- 5.1 To leave the CLASP and SSBL functioning as they currently do.

**This report has been approved by the following officers:**

<b>Legal officer</b>	Olu Idowu
<b>Financial officer</b>	Amanda Fletcher
<b>Human Resources officer</b>	N/A
<b>Estates/Property officer</b>	Phil Derbyshire
<b>Service Director(s)</b>	Christine Durrant
<b>Other(s)</b>	Richard Boneham – Risk Management
<b>For more information contact:</b>	Christine Durrant 01332 642434 christine.durrant@derby.gov.uk
<b>Background papers:</b>	None
<b>List of appendices:</b>	Appendix 1 – Implications

<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 The Council's share of the remaining balance from CLASP is estimated to be in the region of £80,000. This will be paid following all consortia member local authorities approval of the dissolution of CLASP and the entering into of an agreement to give effect to the terms of dissolution.

**Legal**

- 2.1 An agreement is in the process of being drafted to give effect to the proposed dissolution of CLASP. It will deal with, amongst other issues, the treatment of outstanding pension liabilities for staff that transferred from Nottinghamshire County Council when SSBL was established, the transfer of the intellectual property rights held by CLASP to Scape and the distribution of the capital balance held by CLASP at the point of dissolution.
- 2.2 External solicitors have been retained to advise the Council in respect of this agreement.

**Personnel**

- 3.1 None arising from this report

**IT**

- 4.1 None arising from this report

**Equalities Impact**

- 5.1 None arising from this report

**Health and Safety**

- 6.1 None arising from this report

**Environmental Sustainability**

- 7.1 None arising from this report

**Property and Asset Management**

- 8.1 It is important for information held on CLASP school buildings to still be made available to the property maintenance section. This is being protected through the transfer of intellectual property rights to SSBL.

**Risk Management**

- 9.1 As a shareholder in a limited company the Council carries the same risks as other organisations in this position, which are governed by statute.

**Corporate objectives and priorities for change**

- 10.1 The establishment of SSBL contributes to the Councils drive to deliver value for money in establishing innovative ways to support service delivery.

