



*Castle House
Great North Road
Newark
NG24 1BY*

Tel: 01636 650000
www.newark-sherwooddc.gov.uk

Monday, 15 October 2018

Chairman: Councillor D Lloyd

Members of the Committee:

**Councillor P Handley
Councillor D Payne
Councillor P Peacock
Councillor D Staples**

MEETING: Shareholder Committee

DATE: Tuesday, 23 October 2018 at 10.00 am

VENUE: Room S1/S2, Castle House

**You are hereby requested to attend the above Meeting to be held at the time/place
and on the date mentioned above for the purpose of transacting the
business on the Agenda as overleaf.**

If you have any queries please contact Helen Brandham or Catharine Saxton on
helen.brandham@newark-sherwooddc.gov.uk or catharine.saxton@newark-sherwooddc.gov.uk.

AGENDA

Page Nos.

8. Appointment of Non-Executive Director

SHAREHOLDER COMMITTEE

23 OCTOBER 2018

APPOINTMENT OF NON-EXECUTIVE DIRECTOR

1.0 Purpose of Report

1.1 To consider and approve the appointment of Mark Stevenson to the post of Non-Executive Director and the Terms and Conditions of the Non-Executive Director to Arkwood Developments Ltd.

2.0 Background Information

2.1 The governance agreement between Newark & Sherwood District Council and Arkwood Developments Ltd. includes the ratification of the appointment of Directors to the Company by the Shareholders Committee.

3.0 Proposals

3.1 Arkwood Developments have carried out a recruitment campaign to identify a suitable candidate for the position of Non- Executive Director. A Non – Executive Director acts as a Chair of the Board of Directors, offering guidance, support, expertise and an objective perspective to the Board on the key matters of strategy, operational management, organisational structure and development, commercial and financial affairs, and risk management.

3.2 The appointment of a Non-Executive Director is not that of a direct employee. Therefore the post is appointed to in terms of ‘engagement on a contract for services’ and is for a 2 year fixed term period.

3.3 Attached as **Appendix A** are the proposed Terms and Conditions for the Non- Executive Director. It is proposed that the remuneration for this post is £12, 000 per annum with the requirement to work at least 15 days per annum.

3.4 Attached as **Appendix B** is the full role profile for the post.

3.5 A two stage interview process was conducted, with the final selection process taking place on Friday 12 October 2018. Representatives from the Board of Arkwood and Shareholder’s Committee were present at the final interview.

3.6 It is proposed that Mark Stevenson is appointed to the role of Non-Executive Director. Attached as **Appendix C** is the proposed appointee’s Curriculum Vitae which is an exempt paper.

4.0 Equalities Implications

4.1 The terms and conditions attached have been developed with regard to equalities legislation to ensure compliance. The appointment of a Non-Executive Director is not that of a direct employee. Therefore the post is appointed to in terms of ‘engagement on a contract for services’ and is for a 2 year fixed term period.

5.0 Financial Implications

5.1 The remuneration for the post has been set at £12,000 per annum and will initially be met from set up costs. In subsequent years, all costs will be met as per the funding mix as agreed at Policy & Finance Committee in January 2018.

6.0 RECOMMENDATIONS that:

- (a) the appointment of Mark Stevenson to the post of Non-Executive Director to Arkwood Developments Ltd be approved; and**
- (b) the terms and conditions of the Non-Executive Director of Arkwood Developments Ltd. be approved.**

Reason for Recommendations

To approve the appointment of Mark Stevenson to the post of Non-Executive Director and to approve the terms and conditions of the Non-Executive Director to Arkwood Developments Ltd.

Background Papers

Nil

For further information please contact Natalie Cook on Ext 5275

Kirsty Cole
Deputy Chief Executive

Meeting	Shareholders Committee
Date of Meeting	23 October 2018
Report Title	Appointment of Non-Executive Director
Report Author	Deborah Johnson

1.0 Purpose of Report

This report recommends to the Shareholder's Committee the appointment to the role of Non-Executive Director. The governance agreement between Newark & Sherwood District Council and Arkwood Developments Ltd provides for the appointment of directors to the company within in Section 3 of the agreement in which it makes clear that:

"The directors of the Company are appointed and dismissed by the Council".

2.0 Terms and Conditions

The appointment of a Non-Executive Director is not that of a direct employee. Therefore the post is appointed to in terms of 'engagement on a contract for services' and is for a fixed term.

Attached as *Appendix A* are the proposed Terms and Conditions for the Non-Executive Director.

Attached as *Appendix B* is the Role Profile for the Non-Executive Director.

3.0 Proposal

It is proposed that Mark Stevenson is appointed to the role of Non-Executive Director, following a two stage interview process. This included both an interview with representatives of the Board of Arkwood and a second interview with both Board Directors and representatives of the Shareholder's Committee. Attached as *Appendix C* is Mark's Curriculum Vitae (exempt).

It is proposed that this appointment is for a 2 year fixed period.

It is proposed that the remuneration for this post is £12k pa with the requirement to work at least 15 days pa.

On 25 January 2018 the Policy & Finance Committee approved the setup of the development company, this included the set up costs of £120k. Within this financial year the cost of the Non-Executive Director will be met from this money. In subsequent years, any and all costs incurred by Arkwood will be met within the funding arrangement agreed within recommendation c.) of the same report.

(c) the Committee approves, in principle, as a one-off, the funding mix for the Bowbridge Road development of 25% equity and 75% debt. The funding mix of future sites will be determined on a case by case basis; and

4.0 RECOMMENDATION

It is recommended that the Council approve the appointment and its related conditions as set out in section 3 above.

Sanjiv Kohli
Acting Managing Director – Arkwood Developments Ltd.



PRIVATE AND CONFIDENTIAL

[INDIVIDUAL'S NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear [INDIVIDUAL'S NAME],

Letter of Appointment

Following the recommendation of the nomination committee, the board of directors (**Board**) of Arkwood Developments Limited (**Company**) has appointed you as non-executive director.

This letter sets out the main terms of your appointment. If you are unhappy with any of the terms, or need any more information, please let me know.

By accepting this appointment, you agree that this letter is a contract for services and is not a contract of employment and you confirm that you are not subject to any restrictions which prevent you from holding office as a non-executive director.

1. Appointment

- 1.1 Subject to the remaining provisions of this letter, your appointment shall be for an initial term of two years commencing on [DATE] (**Initial Term**) unless terminated earlier by either party giving to the other three month's prior written notice.
- 1.2 Your appointment is subject to the Company's articles of association, as amended from time to time (**Articles**). Nothing in this letter shall be taken to exclude or vary the terms of the Articles as they apply to you as a non-executive director of the Company.
- 1.3 Your appointment following the Initial Term is subject to confirmation by the shareholders at the first AGM following the Initial Term and at any subsequent AGM as required by the Articles or as the Board resolves.



- 1.4 Continuation of your appointment is contingent on your continued satisfactory performance and re-appointment by the shareholders and any relevant statutory provisions relating to removal of a director. If the shareholders do not re-appoint you after the Initial Term and any subsequent term as a non-executive director, or you are retired from office under the Articles, your appointment shall terminate automatically, with immediate effect and without compensation.
- 1.5 Non-executive directors may be invited by the Board to serve for an additional period following the Initial Term. Any term renewal is subject to Board review and AGM re-appointment. Notwithstanding any mutual expectation, there is no right to re-nomination by the Board, either annually or after any other period.
- 1.6 You may be required to serve on one or more Board committees. You will be provided with the relevant terms of reference on your appointment to such a committee. You may also be asked to serve as a non-executive director on the board of any of the Company's subsidiaries or joint ventures, or as senior independent director. Any such appointment will be covered in a separate communication.
- 1.7 Notwithstanding paragraph 1.1 to paragraph 6, the Company may terminate your appointment with immediate effect if you have:
- (a) committed a material breach of your obligations under this letter;
 - (b) committed any serious or repeated breach or non-observance of your obligations to the Company (which includes an obligation not to breach your statutory, fiduciary or common-law duties);
 - (c) been guilty of any fraud or dishonesty or acted in any manner which, in the Company's opinion, brings or is likely to bring you or the Company into disrepute or is materially adverse to the Company's interests;
 - (d) been convicted of an arrestable criminal offence other than a road traffic offence for which a fine or non-custodial penalty is imposed;
 - (e) been declared bankrupt or have made an arrangement with or for the benefit of your creditors, or if you have a county court administration order made against you under the County Court Act 1984;
 - (f) been disqualified from acting as a director; or
 - (g) not complied with the Company's anti-corruption and bribery policy and procedures and the Bribery Act 2010.



- 1.8 On termination of your appointment, you shall, at the Company's request, resign from your office as non-executive director of the Company.
- 1.9 If matters arise which cause you concern about your role, you should discuss these matters with a director to which this sub-clause does not apply.
- 1.10 If you have any concerns which cannot be resolved, and you choose to resign for that, or any other, reason, you should provide an appropriate written statement to the company secretary for circulation to the Board.

2. Time Commitment

- 2.1 You will be expected to devote such time as is necessary for the proper performance of your duties. Overall we anticipate that you will spend a minimum of 15 days a year on work for the Company after the induction phase referred to in paragraph 8. This will include attendance at shareholder committees, Board meetings, the AGM, annual Board away days as required, site visits as required, Board dinners, meetings with the non-executive directors, meetings with shareholders, meetings forming part of the Board evaluation process and updating and training meetings. In addition, you will be required to consider and where necessary contribute all relevant papers before each meeting. Unless urgent and unavoidable circumstances prevent you from doing so, it is expected that you will attend the meetings outlined in this paragraph.
- 2.2 The nature of the role makes it impossible to be specific about the maximum time commitment. You may be required to devote additional time to the Company in respect of preparation time and ad hoc matters which may arise and particularly when the Company is undergoing a period of increased activity. At certain times it may be necessary to convene additional Board, committee or shareholder meetings.
- 2.3 The overall time commitment stated in paragraph 2.1 will increase if you are given additional responsibilities, such as being appointed the senior independent director, or non-executive director on the boards of any of the Company's subsidiaries or sub-committees. Details of the expected increase in time commitment will be covered in any relevant communication confirming the additional responsibility.



2.4 By accepting this appointment, you confirm that, taking into account all of your other commitments, you are able to allocate sufficient time to the Company to discharge your responsibilities effectively. You should obtain the agreement of the chairperson before accepting additional commitments that might affect the time you are able to devote to your role as a non-executive director of the Company.

3. Role and Duties

3.1 The Board as a whole is collectively responsible for the success of the Company. The Board's role is to:

- (a) provide entrepreneurial leadership of the Company within a framework of prudent and effective controls which enable risk to be assessed and managed;
- (b) set the Company's strategic aims, ensure that the necessary financial and human resources are in place for the Company to meet its objectives, and review management performance; and
- (c) set the Company's values and standards and ensure that its obligations to its shareholders and others are understood and met.

3.2 As a non-executive director you shall have the same general legal responsibilities to the Company as any other director. You are expected to perform your duties (whether statutory, fiduciary or common law) faithfully, diligently and to a standard commensurate with the functions of your role and your knowledge, skills and experience.

3.3 You shall exercise your powers in your role as a non-executive director having regard to relevant obligations under prevailing law and regulation, including the Companies Act 2006, the UK Corporate Governance Code and associated guidance, the UK Listing Authority's Listing Rules, Prospectus Rules, and Disclosure Guidance and Transparency Rules and the Market Abuse Regulation (596/2014/EU).

3.4 You shall have particular regard to the general duties of directors in Part 10 of the Companies Act 2006, including the duty to promote the success of the Company under which all directors must act in the way they consider, in good faith, would be most likely to promote the success of the Company for the benefit of its members as a whole. In doing so, as a non-executive director, you must have regard (among other matters) to:

- (a) the likely consequences of any decision in the long term;
- (b) the interests of the Company's employees;



- (c) the need to foster the Company's business relationships with suppliers, customers and others;
 - (d) the impact of the Company's operations on the community and the environment;
 - (e) the desirability of the Company maintaining a reputation for high standards of business conduct; and
 - (f) the need to act fairly as between the members of the Company.
- 3.5 You shall have particular regard to the Financial Reporting Council's UK Corporate Governance Code and associated Guidance on Board Effectiveness in respect of the role of the Board and the role of the non-executive director.
- 3.6 In your role as a non-executive director, you shall also be required to:
- (a) carry out the duties set out in the role profile attached;
 - (b) constructively challenge and help develop proposals on strategy;
 - (c) scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;
 - (d) satisfy yourself on the integrity of financial information and that financial controls and systems of risk management are robust and defensible;
 - (e) be responsible for determining appropriate levels of remuneration of executive directors and have a prime role in appointing and, where necessary, removing senior management and in succession planning;
 - (f) devote time to developing and refreshing your knowledge and skills;
 - (g) uphold high standards of integrity and probity and support the chairperson and executive directors in instilling the appropriate culture, values and behaviours in the boardroom and beyond;
 - (h) insist on receiving high-quality information sufficiently in advance of Board meetings;
 - (i) take into account the views of shareholders and other stakeholders where appropriate;
 - (j) make sufficient time available to discharge your responsibilities effectively;
 - (k) exercise relevant powers under, and abide by, the Articles;



- (l) disclose the nature and extent of any direct or indirect interest you may have in any matter being considered at a Board or committee meeting and, except as permitted under the Articles you will not vote on any resolution of the Board, or of one of its committees, on any matter where you have any direct or indirect interest;
 - (m) immediately report your own wrongdoing or the wrongdoing or proposed wrongdoing of any employee or other director of the Company of which you become aware to a director to which this sub-clause 3.6 (m) does not apply at the time of such reporting;
 - (n) exercise your powers as a non-executive director in accordance with the Company's policies and procedures and the Bribery Act 2010; and
 - (o) not do anything that would cause you to be disqualified from acting as a director.
- 3.7 Unless the Board specifically authorises you to do so, you shall not enter into any legal or other commitment or contract on behalf of the Company.
- 3.8 You shall be entitled to request all relevant information about the Company's affairs as is reasonably necessary to enable you to discharge your responsibilities as a non-executive director.
- 4. Fees and Expenses**
- 4.1 You shall be paid an annual fee of £12,000 gross (current at the date of this letter), which shall be paid in equal instalments monthly in arrears through PAYE after deduction of any taxes and other amounts that are required by law, which shall be subject to an periodic review by the Board. The fee covers all duties set out in this appointment letter (including service on any committee or Company subsidiary).
- 4.2 The Company shall reimburse you for all reasonable and properly documented expenses that you incur in the performance of your duties of your office.
- 4.3 On termination of your appointment, you shall only be entitled to such fees as may have accrued to the date of termination, together with reimbursement in the normal way of any expenses properly incurred before that date.



5. Independent Professional Advice

In some circumstances you may consider that you need professional advice in the furtherance of your duties as a non-executive director and it may be appropriate for you to seek advice from independent advisers at the Company's expense, subject to Board approval. The Company shall reimburse the reasonable cost of expenditure incurred by you in accordance with its policy, subject to Board approval.

6. Outside Interests

6.1 You have already disclosed to the Board the significant commitments you have outside your role in the Company. You must inform the Board in advance of any changes to these commitments. In certain circumstances, you may have to seek the Board's agreement before accepting further commitments which either might give rise to a conflict of interest or a conflict with any of your duties to the Company, or which might impact on the time that you are able to devote to your role at the Company.

6.2 It is accepted and acknowledged that you have business interests other than those of the Company and have declared any conflicts that are apparent at present. If you become aware of any further potential or actual conflicts of interest, these should be disclosed to the chairperson and company secretary as soon as you become aware of them and again you may have to seek the agreement of the Board.

6.3 The Board has determined that you are independent according to the provisions of the UK Corporate Governance Code.

7. Confidentiality

7.1 You acknowledge that all information acquired during your appointment is confidential to the Company and should not be released, communicated or disclosed to third parties or used for any reason other than in the interests of the Company, either during your appointment or following termination (by whatever means), without prior clearance from the chairperson. This restriction shall cease to apply to any confidential information which may (other than by reason of your breach) become available to the public generally.

7.2 You acknowledge the need to hold and retain Company information (in whatever format you may receive it) under appropriately secure conditions.



7.3 Nothing in this paragraph 7 shall prevent you from disclosing information which you are entitled to disclose under the Public Interest Disclosure Act 1998, provided that the disclosure is made in accordance with the provisions of that Act and you have complied with the Company's policy from time to time in force regarding such disclosures.

8. Induction

After the commencement of your appointment, the Company will provide a comprehensive, formal and tailored induction. You will be expected to make yourself available during your first year of appointment as necessary for the purposes of the induction.

9. Training

On an ongoing basis, and further to the annual evaluation process, the Company will arrange for you to develop and refresh your skills and knowledge in areas which are mutually identified as being likely to be required, or of benefit to you, in carrying out your duties effectively. You should try to make yourself available for any relevant training sessions which may be organised for the Board.

10. Review Process

The performance of individual directors and the whole Board and its committees is evaluated annually. If, in the interim, there are any matters which cause you concern about your role you should discuss them with the chairperson as soon as you can.

11. Insurance and indemnity

11.1 The Company has directors' and officers' liability insurance and it intends to maintain such cover for the full term of your appointment. The indemnity limit is £1,000,000 (current at the date of this letter). A copy of the policy document will be provided if required by you.

11.2 The Company shall grant you a deed of indemnity against certain liabilities that may be incurred as a result of your office to the extent permitted by section 234 of the Companies Act 2006.



12. Changes to Personal Details

You shall advise the company secretary promptly of any change in your address or other personal contact details.

13. Return of Property

On termination of your appointment with the Company however arising, or at any time at the Board's request, you shall immediately return to the Company all documents, records, papers or other property belonging to the Company which may be in your possession or under your control, and which relate in any way to the Company's business affairs and you shall not retain any copies thereof.

14. Moral Rights

You hereby irrevocably waive any moral rights in all works prepared by you, in the provision of your services to the Company, to which you are now or may at any future time be entitled under Chapter IV of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction, including (but without limitation) the right to be identified, the right of integrity and the right against false attribution, and agree not to institute, support, maintain or permit any action or claim to the effect that any treatment, exploitation or use of such works or other materials, infringes your moral rights.

15. Post-termination Restriction

By signing this letter and in consideration for the fees payable to you under the terms of this letter, you agree that, in order to protect the confidential information, trade secrets and business connections of the Company to which you have access as a result of your appointment, you will not (without the previous consent in writing of the Company), for the period of 6 months immediately after the termination of your appointment, whether as principal or agent and whether alone or jointly with, or as a director, manager, partner, shareholder, employee consultant of, any other person, carry on or be engaged, concerned or interested in any business which is similar to or which is (or intends to be) in competition with any business being carried on by the Company.

**16. ICT**

During your period in office you will have access to the District Council's ICT equipment and systems. Please refer to the Staff Handbook for further information regarding your responsibilities in this regard.

17. Data Protection Act 2018 and General Data Protection Regulation (2016/679 eu)

The General Data Protection Regulation (GDPR) requires the Company to comply with the principles for processing personal data and to protect against unauthorised access of personal data. Personal data that is inappropriately accessed or disclosed may constitute a data breach. Please refer to the Staff Handbook for further information regarding your rights and responsibilities in this regard.

18. Third Party Rights

No one other than you and the Company shall have any rights to enforce the terms of this letter.

19. Entire Agreement

19.1 This letter and any document referred to in it constitutes the entire terms and conditions of your appointment and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between you and the Company, whether written or oral, relating to its subject matter.

19.2 You agree that you shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this letter and you shall not have any claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this letter.

20. Variation

No variation of this letter shall be effective unless it is in writing and signed by you and the Company (or respective authorised representatives).



21. Governing Law and Jurisdiction

Your appointment with the Company and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales and you and the Company irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) that arises out of or in connection with this appointment or its subject matter or formation.

Please indicate your acceptance of these terms by signing and returning the attached copy of this letter to Sanjiv Kohli, Acting Managing Director, Arkwood Developments Ltd, Great North Road, Newark, NG24 1BY.

Yours sincerely

Acting Managing Director



ACCEPTANCE

I confirm and agree to the terms of my appointment as a non-executive director of Arkwood Developments Ltd as set out in this letter.

SIGNED

[name]

[date]

.....

For and on behalf of [COMPANY]
[POSITION]

I confirm and agree to the terms of my appointment as a non-executive director of [NAME OF COMPANY] as set out in this letter.

Signed on [DATE] by [NON-EXECUTIVE DIRECTOR]

.....

[NON-EXECUTIVE DIRECTOR'S SIGNATURE]



Arkwood Developments Limited

Role Profile

Title: Non-Executive Director

Work Area: Board of Directors

Based at: Meetings usually at Castle House, Great North Road, Newark

Contract Term: 2 years

Days: 15 days per year

Responsible to: Board of Directors

Salary: £12K per year
Role Purpose: To act as Chair of the Board of Directors, offering guidance, support, expertise and an objective perspective to the Board on the key matters of strategy, operational management, organisational structure and development, commercial and financial affairs, and risk management.

<p>Key Accountabilities</p>	<p>Strategy</p> <ul style="list-style-type: none"> • To provide advice, judgement and feedback to the Board of Directors on business planning and Company strategy. • To support the Board of Directors in establishing clear objectives for delivering and achieving strategic and business plans. • To assist the Board of Directors in setting challenging objectives for improving organisational performance. • To contribute towards the leadership, planning and implementation of change. • To provide an external perspective to constructively challenge and analyse the development of Company strategy. <p>Financial</p> <ul style="list-style-type: none"> • To ensure that financial information is accurate and that financial controls are robust and defensible. • To provide the approval of business plans and annual budgets at Board level. <p>Performance</p> <ul style="list-style-type: none"> • To participate in the analysis of the performance of management in meeting agreed goals and objectives and in monitoring the reporting of performance.
<p>Governance</p>	<ul style="list-style-type: none"> • To ensure that the Board operates in line with accepted good practice in terms of Corporate Governance. • To ensure that the organisation is run in a transparent and equitable manner consistent with Company values and purpose. • To ensure that systems of risk management are robust and defensible.

Board Activities	<ul style="list-style-type: none"> • To attend and Chair quarterly Board meetings and, as required to be a key member of Board sub committees and other ad hoc meetings of the Board of Directors • To offer advice and guidance in a consultative capacity to the CEO and other Executive Directors as well as Senior Managers as required. • To participate in the annual performance review of the Board of Directors and sub - committee structure. • To make recommendations to the Board on the appointment or removal of senior management, on succession planning and on the remuneration of Directors. • To attend the Annual General Meeting of the Company. • To act in a coaching and mentoring capacity to the Board of Directors and other senior executives. • To act as an unbiased, objective and impartial member of the Board, ensuring that all decisions taken are in the best long term interests of Arkwood Developments Limited, its stakeholders and employees • To act in accordance with the Board of Directors' code of Conduct at all times.
PERSON SPECIFICATION	
Essential Criteria	<ul style="list-style-type: none"> • Proven Board level experience in a private sector organisation • Strong understanding of Corporate Governance • Track record of active leadership and achieving positive change • Demonstrable experience of financial strategic thinking • Ability to handle complexity and uncertainty • Creative and flexible thinker; open to new ideas and able to modify views and constructively challenge • Ability to analyse the performance of executive directors in meeting agreed goals and objectives

	<ul style="list-style-type: none"> • Experienced in the capacity of Chairing meetings • Emotionally intelligent and resilient; self-aware • Able to inspire colleagues and bring energy and enthusiasm to their work • Able to build trust, act with integrity and be relied upon • Identify with the values and behaviours that exemplify the cooperative culture • Experience of a multi-location business
Desirable Criteria	<ul style="list-style-type: none"> • Experience of the residential housing industry • Experience of commercial developments • Experience of construction industry • Educated to degree level in a relevant subject • Post-graduate business management qualification or similar professional qualification

By virtue of paragraph(s) 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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