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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

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2. Declarations of Interest by Members and Officers and as to the Party Whip	
3. Declarations of any Intentions to Record the Meeting	
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8. Appointment of Non-Executive Director	To Follow

Date of Next Meeting - Monday, 26 November 2018 @ 2.00pm (Room F1/F2, Castle House)

Agenda Item 4

NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Shareholder Committee** held in Rooms F2/F3, Castle House, 29 March 2018 at 2.00pm.

PRESENT: Councillors: R.V. Blaney, G.P. Handley, D.R Payne and D. Staples.

ALSO IN ATTENDANCE: Olwen Dutton (Anthony Collins, Solicitors)

APOLOGIES FOR Councillor P. Peacock
ABSENCE:

1. APPOINTMENT OF CHAIRMAN

AGREED that Councillor R.V. Blaney be appointed Chairman of the Committee.

2. DECLARATIONS OF INTERESTS BY MEMBERS AND OFFICERS

There were no declarations of interest.

3. DECLARATION OF ANY INTENTIONS TO RECORD THE MEETING

There were no declarations of intention to record the meeting.

4. COMPANY NAME

The Committee considered possible company names. Suggestions included: New Ash Developments Limited; Vision in Property Limited; New Woods Developments Limited; and Castle House Developments Limited.

AGREED (unanimously) that the final decision on the company name be delegated to the Director – Resources following consultation with the Leader of the Council and Leader of the Main Opposition Group.

5. ARTICLES OF ASSOCIATION

The Committee considered the report of the Director – Safety which set out draft Articles of Association for the Council's wholly owned Development Company.

The Committee raised a number of questions in respect of the draft Articles of Association which were answered by Olwen Dutton.

The Committee requested that in respect of General Meetings there should be a requirement for the Company to hold an AGM. In addition the Committee expressed concerns in respect of the provisions of Section 27A relating to Alternate Directors and Section 35 Observers. These issues were revisited during consideration of the Governance Agreement.

AGREED (unanimously) that the draft Articles of Association for the Development Company, as amended by the Shareholder Committee, be recommended to Full Council for approval.

6. GOVERNANCE AGREEMENT

The Committee considered the report of the Director – Safety which set out a draft Governance Agreement which would regulate how the Council and the Development Company would work together.

The Committee raised a number of questions in respect of the draft Governance Agreement which were answered by Olwen Dutton. The Committee discussed whether reputational issues should be included within the Governance Agreement but it was agreed that such issues were adequately covered in Section 19 Good Faith . In addition the Committee noted that issues such as the living wage were omitted from the draft Governance Agreement. However, Olwen Dutton advised that such matters would be addressed within specific business plans considered by the Company.

Minor amendments in respect of Section 3 Directors and Management, Section 6 The Business Plan, Section 7 Accounting, Section 17 Costs, Section 21 Notice and Section 29 Internal Council Decision Making were all agreed. The Committee also considered the figures contained within Schedule 2 – the Shareholder Reserved Matters and recommended that, within the first matter, the £1m figure in respect of business plan matters delegated to the Board be reduced to £500,000.

The Committee requested changing to the wording in Section 12.7 within Information, Scrutiny and Accountability in order to clarify the respective roles of the Council and the Shareholder Committee and how officers/employees of the Company would provide required information to the Council. In this section the Committee also requested an additional paragraph to allow Council observers to attend Board Meetings which had also been raised during the debate on the draft Articles of Association. The Committee also requested an addition to the Governance Agreement in respect of Alternate Directors which had also been raised during discussion of the draft Articles of Association.

AGREED (unanimously) that the draft Governance Agreement, as amended by the Shareholder Committee, be recommended to Full Council for approval.

Meeting closed at 3.50 pm.

Chairman

SHAREHOLDER COMMITTEE

23 OCTOBER 2018

COMPANY PROGRESS REPORT

1.0 Purpose of Report

1.1 To note the progress of Arkwood Developments Ltd business activities.

2.0 Background Information

2.1 The Council's Policy & Finance Committee approved the establishment of a development company (Arkwood Developments Ltd) in January 2018 to undertake residential and commercial developments.

2.2 Arkwood Developments Ltd are responsible for delivering the overarching aim of the Council's Commercial Strategy, and Investment Plan, to deliver positive financial returns to the Council's General Fund.

3.0 Proposals

3.1 Arkwood Developments have progressed a number of activities since the company was established.

3.2 A full report on the Company's progress is included in the attached report. Key activities include:

- The Board is in the process of commissioning the necessary preparatory work to enable the submission of a planning application for the residential development at Bowbridge Road, Newark. The business case will also inform the development of the Company's overarching Business Plan.
- The Company are now creating a market identity including the development of a dedicated website and they have established a company logo. The logo is included in the attached report.

3.3 Members are requested to consider the statement included in (para. e) Arkwood's report:

'ICT, Financial services and Information Governance will be procured from the Council. Due to the specialist nature of the required Legal and Human Resource services, the Company will seek to procure these externally.'

In accordance with the signed Governance Agreement between the Council and Arkwood Developments, the agreement states that:

'The Council will provide all support services to the Company, unless the services provided by the Council does not meet the needs of the Company.'

The Council's Business Manager – HR, Legal and OD has commented that she agrees with the view that Legal Services should be procured externally given the specialist nature of the type of advice required e.g. Company Law and limited capacity within the team. However, she is of the view that Human Resources could be delivered by the Council's HR Service, given that the Council currently employ a range of experience (including private sector)/qualified HR professionals operating at different levels/price points. Consequently the Council are in a position to ensure that the Company receive the most cost effective service by ensuring that work activities are allocated for completion at the most appropriate level/price point within the team. This would ensure that the services provided are cost effective whilst also providing the Company with certainty around capacity/resilience in relation to service delivery. The Council already have a track record of providing HR services to Newark and Sherwood Homes, Active 4 Today, Southwell Leisure Centre as well as parishes on an ad hoc basis so it makes sense for the team to also provide services to Arkwood Developments Ltd. It should also be noted that the team have already provided HR advice/support to Arkwood and continue to do so on a regular basis.

4.0 Equalities Implications

4.1 Within the report, reference has been made to the development of a number of policies and processes (para h). When developing the approach, the Company, as a wholly owned Council Company, will need to have regard to equalities implications. The Company will also need to have regard to equalities in relation to the recruitment/appointment of the Managing Director and Non-Executive Director to ensure compliance from a legislative perspective to avoid any potential claims of discrimination.

5.0 Financial Implications

5.1 The Council has created budget provision over the 17/18 and 18/19 financial years of £214,380. This was for the initial set up costs of the Company. To date, costs and commitments incurred amount to £19,653 which leaves a balance of £194,727.

5.2 £100,000 has been formally requested from the District Council's agreed allocated budget (as referred to in paragraph 5.1) to be transferred into the Company's bank account.

5.3 The Service Level Agreements with the Council are still being negotiated and once these have been agreed, cost implications will be brought back to the Committee at a later date.

6.0 RECOMMENDATIONS that:

- 1. the content of the report be noted;**
- 2. the Company be requested to reconsider its position concerning the provision of Council HR services to Arkwood to reflect the original intention as set out in the Governance Arrangement; and**
- 3. the Company note the drawdown of £100,000 from the allocated budget;**

Reason for Recommendations

To note the progress of Arkwood Developments Ltd. business activities.

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 rd October 2018
Report Title	Company Progress Report
Report Author	Rob Main

The Company has now held 2 Board meetings on the 29th June and 28th August 2018, with the following business activities being undertaken:

- a) All Board Directors have signed the Governance Agreement and Articles of Association, along with being briefed on their roles and responsibilities including issues surrounding conflicts of interest.
- b) The Board has adopted the business case approved by Newark and Sherwood District Council at its meeting on 25 January 2018 and is now in the process of commissioning the necessary preparatory work to enable the submission of a planning application for the residential development at Bowbridge Road, Newark. The business case will also inform the development of the Company's overarching Business Plan.
- c) The Board has undertaken a branding exercise, assisted by the Council's Marketing and Communications Manager with the approved Company logo set out below.



- d) The Company is now creating a market identity and in the first instance developing a dedicated website, in addition to setting up separate email addresses and direct phone lines for Directors of the Board and employees of the Company.
- e) The Board has considered the procurement of support services in the following key areas: financial services; legal services; ICT; Human Resources and Information Governance. It has been agreed that ICT, Financial services and Information Governance will be procured from the Council with the Service Legal Agreements now being drafted. Due to the specialist nature of the required legal and human resource services, in addition to the capacity of the Council to resource these functions, the Company will seek to procure these externally.

- f) To ensure the appropriate financial probity is adhered to, the Company has adopted a process for all employees and Directors to follow in relation to placing and paying orders.
- g) The Company has now requested its start-up fund from the District Council, with a bank account set up.
- h) The Company has now established an overarching risk register, which will be regularly reviewed, and approved a 'Gifts and Hospitality Policy'. Further work is now progressing to adopt the following policies and approaches:
 - Grievance and Disciplinary
 - Anti-Bribery and Fraud
 - Complaints policy
 - Conduct
 - Health and safety
 - Equalities
 - Procurement (*recognising the benefit of procuring locally set against achieving value for money.*)
- i) In accordance with the Business Case approved by Policy and Finance Committee, the Board have completed the recruitment process for the appointment of a Non-Executive Director on a fixed term contract for two years and a conditional offer has been made to the preferred candidate. The Committee is asked to ratify the appointment as a separate agenda item at the Shareholders Committee on 23 October.
- j) The recruitment for the Managing Director will commence once the Non-Executive Director has been appointed to allow for the Non-Executive Director to be involved in the recruitment process. The Committee is asked to approve the statement of terms for the Managing Director post at the Shareholders Committee on 23 October.

Sanjiv Kohli
Acting Managing Director
Arkwood Developments Ltd.

SHAREHOLDER COMMITTEE

23 OCTOBER 2018

RISK MANAGEMENT PROFILE

1.0 Purpose of Report

1.1 To note the risk management profile for Arkwood Developments Ltd.

2.0 Background Information

2.1 In accordance with the Council's risk management process, a risk profile has been developed assessing the potential risks to Newark and Sherwood District Council associated with the operation of the Development Company.

2.2 The Risk management profile has been developed in conjunction with the Council's Safety and Risk Management Officer.

3.0 Risk Management Profile

3.1 The detail within the risk management profile ensures the Council has suitable control over the risk. In addition to assessing the risk, the Council are considering the measures and controls to ensure that the risk operates within the Council's corporate risk appetite.

3.2 The risk profile outlines five main areas:-

- Vulnerability – The type of factors that influence whether the risk is likely to occur or not.
- Trigger/Event – Any of the potential effects of the risk occurring.
- Impact – What the effect would be if the risk did occur, e.g. loss of service, injury to personnel or amount of financial loss.
- Measures in place - These are the measures or controls that are already in place to mitigate or control the risk.
- Further Control Required – These are the actions or further controls which the business considers is necessary and feasible to help reduce the likelihood of the risk occurring or the impact of the risk if it does occur.

3.3 The full risk profile is attached as an **Appendix**, details included in the risk are:

Trigger	Impact
Financial implications such as Company failure to deliver the approved business plan.	Return on investment to the Council not realised.
Reputational risk such as poor quality developments leading to customer dissatisfaction.	Adverse impact on the Council's reputation including reputation with key partners and stakeholders.
Market and External Factors such as market volatility resulting from Brexit or skills shortages.	The Council not meeting their contribution to local plan housing targets.

- 3.4 The measures in place include the establishment of the Shareholders Committee and the Shareholders Committee authority to approve reserved matters in accordance with signed Governance arrangements.
- 3.5 Further controls required to reduce the likelihood of the risk occurring are the Shareholder Committee adopting the Arkwood Business Plan and ratification of the Managing Director appointment for Arkwood Developments Ltd.
- 3.6 The current risk score has been scored at 9, with the likelihood defined as significant and the impact as critical, therefore categorising the current risk as a red risk. The likelihood has been defined as significant because the developments progressed by Arkwood are still in their infancy and market volatility will have an impact on the delivery of Arkwood's business plan. The impact has been defined as critical as there will be a reliance on the income the Council will receive from the Company in future years, in order to contribute towards the medium term financial plan.
- 3.7 A target risk score outlines the score which is deemed to be an acceptable level of risk for the Council. When mitigating controls have been actioned, the target score will be realised. The target risk score has been scored at 6, with the likelihood defined as low and the impact as critical. This would move the risk into a yellow category. The likelihood has been defined as low as the Shareholders Committee will have had the opportunity to consider the business plan for the Company and in due course, the business plan for each development. The impact has still been defined as critical as there will be a reliance on the income the Council will receive from the Company in future years, in order to contribute towards the medium term financial plan.
- 3.8 The risk profile is a 'live' document and will be updated as the business activities from the Development Company progresses.
- 3.9 Arkwood Developments have their own risk register, which assess risks to the Company. Arkwood will also develop a risk register for each development site as appropriate.

4.0 Equalities Implications

- 4.1 The risk management profile does not have any equalities implications, however each business case for each site development will need to have regard to equalities implications.

5.0 Financial Implications

- 5.1 In the latest approved medium term financial plan by Policy and Finance Committee on 29 June 2017, there has been no income from the Company currently built in. Once this has been built in, this will be kept under constant review to ensure the prudence within the medium term financial plan of expected income to be generated.

6.0 RECOMMENDATION

That the content of the report be noted;

Reason for Recommendation

To note the progress of Arkwood Developments Ltd business activities.

Background Papers

Nil

For further information please contact Natalie Cook on Ext 5275.

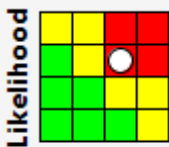
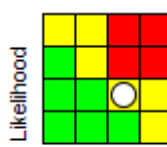
Kirsty Cole
Deputy Chief Executive

Arkwood Developments Limited

RISK MANAGEMENT PROFILE

Generated on: 8 October 2018

APPENDIX

Management Action Plan	Arkwood Developments Limited	Risk Owner	Kirsty Cole
Description	Managing the performance relationship between the council and Arkwood Developments in line with the Governance agreement		
Risk Review Period	Quarterly		
Current Risk Matrix	Target Risk Matrix		
 <p>Risk Score 9</p> <p>Likelihood: Significant</p> <p>Impact: Critical</p>	 <p>Risk Score 6</p> <p>Likelihood: Low</p> <p>Impact: Critical</p>		

Risk Officer Review	
Vulnerability	<p>Financial implications</p> <p>Reputational</p> <p>Compliance issues</p> <p>Failure to adhere to business plan</p> <p>Market and external factors</p> <p>Resource demand</p> <p>Relationship with Company</p>
Trigger/Event	<p><u>Financial</u></p> <p>Loan repayments from the Company are not made</p> <p>Company failure to deliver approved Business Plan</p> <p>Company failure to pay monies to the Council e.g. land transactions costs, SLA Costs</p> <p>Company failure to pay monies in a timely way</p> <p>Company failure to manage cash flow</p> <p><u>Reputational</u></p> <p>Poor leadership</p> <p>Company insolvency</p> <p>Poor quality development leading to customer dissatisfaction</p> <p>Secretary of State call in planning decisions made by council on company developments</p> <p><u>Compliance Issues</u></p> <p>Operational failure leading to non-compliance/legislative failure</p> <p>Compliance failure by the Company (i.e. legislative & policy)</p> <p><u>Lack of delivery</u></p> <p>Failure to adhere to business plan</p> <p>Lack of awareness of company purpose</p> <p>Company failure to secure planning consent on developments</p> <p><u>Market & External Factors</u></p> <p>Brexit – market volatility</p> <p>Downturn in economy</p> <p>Failure to understand and develop to meet market needs</p> <p>Changes in local and national policy & legislation e.g. restraints in legislation from Council</p> <p>Lack of skills to deliver developments to quality and on time (e.g. skills shortage)</p> <p>Market and external construction prices leading to increased cost of build</p> <p><u>Resource Demand</u></p> <p>Insufficient resourcing (e.g. internal capacity to deliver)</p> <p>Over resourcing</p> <p>Incorrect or over demanding SLA's</p> <p>Failure to deliver Council objectives due to increased amount of time spent by board of directors on Company rather than substantive role</p> <p><u>Relationship with Company</u></p> <p>Lack of communication between Company and Council</p> <p>Lack of regular updates/ assurance from company</p>
Impact	<p><u>Financial</u></p> <p>Return on investment to the council not realised</p> <p>Lack of sustainability and viability of company</p> <p>Council not achieving aims & objectives as set out in Council's Commercial strategy</p> <p><u>Resource Demand</u></p> <p>Substantive council roles of directors compromised</p> <p>Council resource overstretched – poor quality service to council or company</p>

	<p><u>Reputational</u> Adverse impact on reputation Inability to contribute to local plan housing numbers Impact on reputation with key partners and stakeholders</p> <p><u>Market & External Factors</u> Lack of housing that meets market demand</p> <p><u>Relationship with Company</u> Relationship breakdown between council and company</p>
Measures In place	<p>Shareholder Committee established and membership agreed Future Shareholder Committee Meetings arranged Shareholder Committee Members training session completed on 17/1/18 Shareholder Committee authority to approve reserved matters in accordance with signed Governance Arrangement</p>
Further Controls	<p>Shareholder Committee to adopt Arkwood Business Plan Shareholder Committee to ratify appointment of Managing Director for Arkwood Shareholder Committee to adopt business plans for each development site</p>

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

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