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Monday, 9 September 2019

Chairman: Councillor D Lloyd

Members of the Committee:

Councillor L Brailsford
Councillor B Clarke-Smith
Councillor K Girling
Councillor P Peacock

MEETING: Shareholder Committee

DATE: Tuesday, 17 September 2019 at 5.30 pm

**VENUE: Civic Suite, Castle House, Great North Road,
Newark NG24 1BY**

**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 Bayne on helen.bayne@newark-sherwooddc.gov.uk.

AGENDA

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2. Declarations of Interest by Members and Officers and as to the Party Whip	
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8. Exclusion of Press and Public	
<p>To consider resolving that, under section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.</p>	
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NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Shareholder Committee** held in the Civic Suite, Castle House, Great North Road, Newark NG24 1BY on Tuesday, 11 June 2019 at 5.30 pm.

PRESENT: Councillor L Brailsford, Councillor B Clarke-Smith, Councillor K Girling, Councillor D Lloyd and Councillor P Peacock

1 MINUTES OF THE PREVIOUS MEETING HELD ON 17 DECEMBER 2018

The minutes of the meeting held on 17 December 2018 were approved as a correct record and signed by the Chairman.

2 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS AND AS TO THE PARTY WHIP

There were no declarations of interest.

3 DECLARATIONS OF ANY INTENTIONS TO RECORD THE MEETING

There were no declarations of any intention to record the meeting.

4 FORWARD PLAN

The Committee considered and noted the forward plan for the Shareholder Committee.

5 ARKWOOD DEVELOPMENTS LIMITED - RETIREMENT OF DIRECTOR

The Projects Officer presented a report regarding the retirement of one of the Directors on the Board of Arkwood Developments. It was within the remit of the Committee to appoint and remove directors of the Board. It was proposed that the Business Manager- Asset Manager be removed from the Board to enable him to provide unfettered advice to the Council on potential land disposals to the Company.

It was not proposed that a replacement appointment be made, as there remained an adequate number of Council Officers on the Board.

AGREED that the Business Manager – Asset Management & Car Parks, Steven Syddall retire as a Director on the Board of Arkwood Developments Ltd and that at this point in time, no replacement be appointed.

6 EXCLUSION OF PRESS AND PUBLIC

AGREED that under section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of part 1 of Schedule 12A of the Act.

7 ARKWOOD DEVELOPMENTS LIMITED - BUSINESS PLAN 2019-2024

The Committee considered the exempt report Arkwood Developments Limited- Business Plan 2019-2024.

(Summary provided in accordance with Section 100C(2) of the Local Government Act 1972).

8 BOWBRIDGE ROAD DEVELOPMENT, NEWARK- BUSINESS CASE

The Committee considered the exempt report regarding the Bowbridge Road Development, Newark- Business Case together with the late item 8a- Arkwood Limited- Funding of Bowbridge Road Development.

(Summary provided in accordance with Section 100C(2) of the Local Government Act 1972).

9 ARKWOOD LIMITED - FUNDING OF BOWBRIDGE ROAD DEVELOPMENT

This item was considered with Item 8 - Bowbridge Road Development, Newark - Business Case.

10 EQUITY FUNDING DRAWDOWN

This item was withdrawn from the agenda and replaced with item 8a - Arkwood Limited - Funding of Bowbridge Road Development.

11 MINUTES FROM THE BOARD MEETINGS OF ARKWOOD DEVELOPMENTS

The Committee noted the minutes from the meetings of Arkwood Developments Board meetings held on 24 January 2019, 21 February 2019, 29 April 2019 and 20 May 2019 (draft).

12 DATE OF NEXT MEETING

Tuesday 17 September 2019

Meeting closed at 7.00 pm.

Chairman

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

Document is Restricted

SHAREHOLDER COMMITTEE

17 SEPTEMBER 2019

MINUTES FROM THE BOARD MEETINGS OF ARKWOOD DEVELOPMENTS

1.0 Purpose of Report

1.1 To note the minutes from the Board Meetings of Arkwood Developments Ltd held on 25 June 2019 and 1 August 2019.

2.0 Background Information

2.1 The Governance Agreement between the District Council and the Company states that the Company should provide copies of Board Minutes to the Shareholder Committee following each Board meeting.

3.0 Proposals

3.1 The Company has held two Board meetings since the previous shareholder Committee and the minutes are attached as **Appendices** to this report.

3.2 The Board minutes include the progression of the final business case for Bowbridge Road which will be presented to December's Shareholder Committee.

3.3 Items of note for the Shareholder Committee are on the forward plan such as a Progress Update on Company activity.

3.4 The next meeting of the Board is scheduled for 2 October 2019 and in accordance with the Governance Agreement, a representative from the Council has been invited to attend.

4.0 Equalities Implications

4.1 Where appropriate, equalities implications have been considered in relation to the information contained within the relevant Company reports and minutes.

5.0 Financial Implications

5.1 There are no direct financial implications arising from this report.

6.0 Community Plan – Alignment to Objectives

6.1 The Company is referenced in the Community Plan under the objective of accelerating the supply of new homes by delivering 300 new homes by 2026/27.

7.0 RECOMMENDATION

That the minutes from the Board Meetings of Arkwood Developments are noted.

Reason for Recommendation

To note the minutes from the Board Meetings of Arkwood Developments.

Background Papers

Nil.

For further information please contact Natalie Cook, Projects Officer on ext 5275.

Karen White

Director - Governance & Organisational Development

MINUTES OF THE BOARD MEETING	
Meeting Date	25 June 2019
Present:	
Board Directors	Andy Dewberry (AD) – Managing Director, Deborah Johnson (DJ), Sanjiv Kohli (SK), Rob Main (RM), Mark Stevenson (MS) – Non-Executive Director and Chairman and Cllr. Tim Wendels (TW).
Company Secretary	Nigel Hill.
Declarations of Interest	Cllr. Tim Wendels referred to his conflict of interest given he was a member of the Council’s Policy & Finance Committee.
Apologies	Apologies for absence were received from John Robinson who was due to attend on behalf of Newark & Sherwood District Council.
Decisions	
<p>Minute No. 58 <u>Minutes of the Board Meeting held on 20 May 2019</u></p> <p>Resolution: AGREED these were a true record of the meeting.</p> <p>In respect of future pipeline activities it was recorded that AD was to engage with the District Council in respect of undertaking a review of all assets held by them which may prove suitable for development.</p>	
<p>Minute No. 59 <u>Update on Bowbridge Road</u></p> <p>AD presented to the Board an update report in respect of the Bowbridge Road Development. He advised that a scheme for 82 units was approved by the Council’s Shareholder Committee on 11 June 2019 and this was subject to final approval by the Policy & Finance Committee at their meeting to be held on 27 June 2019 which would then allow the release of equity funding to allow onward progression of works relating to the development. AD added that he was continuing to work on further design iterations and viability assessments which would improve on the 82 unit scheme which had been presented to the Shareholder Committee. The latest design being considered was an 87 unit option which had an improved mix including a number of additional bungalows.</p>	

SK referred to the latest position in respect of the land valuation. He advised that the Council may revert to a RICS land valuation approach which may mean an increase in valuation from the agreed £1.9m to £2.35m. This would impact on the potential returns for the Company albeit the overall return to the Council would remain broadly unchanged. MS referred to the need for future early engagement with the Council in respect of any future land valuations.

AD also provided an update in respect of the various land survey returns, negotiations with Western Power over the 12m electricity cable easement and progress with identifying potential build partners.

MS requested that AD produce a timeline for the Bowbridge Road development with key milestones and procurement route being highlighted for consideration at the next meeting.

Resolution

AGREED that the Board notes the progress and future actions in respect of the Bowbridge Road development.

Minute No. 60

Update on Elm Avenue

EXEMPT MINUTE – See attached appendix

Minute No. 61

Update from the Shareholder Committee

AD presented a report which advised the Board of the items considered by the Shareholder Committee at their meeting held on 11 June 2019.

In respect of the Company's Interim Business Plan AD reported that the Committee were very supportive and it was confirmed to them that this interim plan set further work relating to the proposed development sites to allow more detailed work to be undertaken relating to the financial metrics and associated staff resources. AD advised that a refreshed Business Plan would be taken back to the Shareholder Committee in December 2019 which would include additional financial detail, would more explicitly highlight the potential synergy between the HRA development programme and the Company's future work stream and would give greater clarity on the future staff resources.

In respect of the Bowbridge Road Business Case AD again reported the Committee were challenging in their approval of the business case. A final business case was to be presented to the Committee at their meeting scheduled in December 2019 which would be based upon a finalised design which would include more detailed financial information and cash flow forecasts. AD reported that following questions concerning the £100k provision for sales and marketing a detailed sales and marketing plan was required to be developed.

Resolution

AGREED that the outcomes and further actions required from the Shareholder Committee of 11 June 2019 be noted.

Minute No. 62**Project Pipeline and Timescales**

AD presented a discussion paper aimed at identifying the current development pipeline and sought to get views and set timescales and an approach to their potential future delivery. The Board considered the importance of certainty for the Company in respect of development sites. For example MS stated that for the Lowfield Lane site it was necessary to agree a valuation and plug in as a confirmed project. It was suggested that the sites be ranked in terms of prospects of being developed which may require AD to undertake some viability appraisals.

AD agreed to do an initial programme based on the current five year delivery plan and he would also write to the District Council advising that the Company had identified these in the delivery plan and request details about availability of these, timeframe for disposal and any known issues with these sites.

The Board also suggested that AD arrange a meeting with appropriate District Council Officers to agree a future process for land valuations.

Minute No. 63**Treasury Management Strategy**

SK reported that once District Council funding was released to Arkwood these would be held in a Triple AAA rated account with easy access which would be monitored by the Board. He added that he would bring a report on Treasury Management to the next meeting.

Minute No. 64**Cash Flow**

AD provided an update in respect of the Company cash flow. He advised that the Company were yet to require the £10k release agreed by the District Council given how payments had been managed over the past month which had left an approximate £5k surplus. AD confirmed that work was ongoing with the Council to secure a new financial management system for use by the Company.

Minute No. 65**Service Level Agreement for Lowfield Lane and Viability Works**

AD presented a draft Service Level Agreement for an options appraisal at Lowfield Lane, Newark. He advised that this was unable to be completed due to the District Council seeking assurances around costs. MS identified the three areas of cost as being managing the site appraisal; surveying costs; and land valuation. This would also equate into the process to be followed under the terms of the Service Level Agreement but it would be for the Council to pay the site survey costs.

Minute No. 66**Date of next Board Meeting / Future Schedule**

Resolution

AGREED that the next meeting of the Board would take place on Monday 22 July 2019 at 4.30pm.

It was suggested that a schedule of future meetings be submitted to the next meeting of the Board.

MINUTES OF THE BOARD MEETING	
Meeting Date	1 August 2019
Present:	
Board Directors	Andy Dewberry (AD) – Managing Director, Sanjiv Kohli (SK), Mark Stevenson (MS) – Non-Executive Director and Chairman and Cllr. Tim Wendels (TW).
	Also in attendance - Karen White (KW) – representing Newark & Sherwood District Council.
Company Secretary	Nigel Hill.
Declarations of Interest	There were no declarations of interest.
Apologies	Apologies for absence were received from Deborah Johnson and Rob Main.
Decisions	
Minute No. 67 <u>Minutes of the Board Meeting held on 25 June 2019</u>	
Resolution: AGREED these were a true record of the meeting.	
Minute No. 68 <u>Policy & Finance Committee – 27 June 2019</u>	
SK advised of the decision of the District Council’s Policy & Finance Committee to sell the land at Bowbridge Road for a sum of £2,350,000 and the release of £3,321,276 equity funding to the Company.	
Minute No. 69 <u>Bowbridge Road Development – Project Progress and Timeline</u>	
AD presented a progress report in respect of the Bowbridge Road development. He confirmed that a scheme for 87 units which was being worked up into a future planning application, and updated the Board in respect of his discussions with WT Partnership property consultants. Details of the proposed scheme and drawings had been circulated to the Board ahead of the meeting but AD confirmed that the final designs would be circulated to the Board when available.	

Resolution

AGREED that:

- a) the Board note the progress and future actions; and
- b) the Board receive financial information relating to the scheme on a quarterly basis.

Minute No. 70

Bowbridge Road Business Case

The Business Case agreed by the Council's Shareholder Committee was circulated to the Board prior to the meeting. AD confirmed that the Business Case would evolve further as the scheme and planning application submission are finalised. It was noted that the final Business Case would need to be re-presented to the Council's Shareholder Committee.

Minute No. 71

Elm Avenue

EXEMPT MINUTE – See attached appendix

Minute No. 72

Future Projects Outline and Council Land Asset Review

AD reported that he had scheduled a meeting with the District Council's Business Manager for Planning Policy to progress the identification of possible future development sites. Following this meeting, he would bring a future document to the Board, which in effect would be a 'pipeline tracker'.

AD also advised that he would also meet with the Council to discuss the Southwell site and he would look to make further progress with the Lowfield Lane site.

AGREED that the 'pipeline tracker' should be included on future Board Meeting agendas for regular review.

Minute No. 73

Treasury Management

SK reported that the equity funding released by the Council to the Company, had been invested in accordance with the Council's Treasury Management Strategy in a risk free instant access account. AD confirmed he had the appropriate access to this equity funding and he added that the imminent purchase of a new financial system by the Council (to be used by Arkwood) would assist with financial viability and cash flow.

The Treasury Management Strategy was circulated to the Board for consideration. In addition, SK circulated a draft Statement of Accounts for the Company for the year ending 31 March 2019.

Resolution

AGREED that the Treasury Management Strategy and draft Statement of Accounts for the Company for the year ending 31 March 2019, be approved.

Minute No. 74

Action Tracker from Business Plan

AD advised that he was still in the process of extracting actions from the Business Plan and he confirmed he would circulate this document to members of the Board in due course. He advised that he would also update the Business Plan.

Minute No. 75

Date of next Board Meeting / Future Schedule

Resolution

AGREED that the next meeting of the Board would take place on Tuesday 3 September 2019 at 4.30pm.

The following schedule of meetings was also agreed:

Wednesday 2 October 2019 – 4.30pm

Monday 4 November 2019 – 4.30pm

Monday 2 December 2019 – 4.30pm

Minute No. 76

Any other Business

Internal District Council Audit

KW advised the Board that there had been an internal audit of Council owned companies, which had found that the Council did not hold details of risk strategies and risk register for Arkwood Developments Ltd. As such, KW would write to Arkwood, to formally request these.

Tax Implications

SK advised the Board that it was necessary for the Company to be fully aware of VAT and other tax implications. He suggested that KPMG could be invited to a future Board Meeting to do a short presentation on this.

Meeting closed at 6.12 pm

SHAREHOLDER COMMITTEE

17 SEPTEMBER 2019

COUNCIL AND COMPANY TAXATION

1.0 Purpose of Report

1.1 To inform the Shareholder Committee of the taxation implications for Arkwood Limited, as the Council's wholly owned development company and any associated taxation implications for the Council.

2.0 Background Information

2.1 Members of the Committee requested that the Company provides a briefing on the taxation implications of Arkwood Limited operating as a residential (and commercial) developer.

2.2 This report sets out the Stamp Duty Land Tax, Corporation Tax, VAT and PAYE/NIC implications for the Company (and Council)

3.0 Proposals

3.1 Stamp Duty Land Tax

The Council is a corporate body, and owns 100% of the shares in the company, so the transfer of land interests (these include undeveloped land, partly completed housing units and completed dwellings) from the Council to the Company will be wholly relieved of SDLT through Group Relief. However, the initial purchase of the land from third parties would be subject to SDLT. The qualifying shareholding for Group Relief is a minimum of 75%.

For note, Group Relief would not be available if:

- The company is limited by guarantee rather than by shares, or
- Arrangements are in place at the time of the transaction that could break the group qualifying conditions.

Group Relief would be clawed back, and SDLT would become payable, if arrangements are put in place, within three years of any transaction, to break the group qualifying conditions. This is typically the sale of the company or sale of more than 25% of the share capital.

Where the Council or the company purchases property assets from third parties, or Group Relief is not applicable, the purchaser would be liable to pay SDLT at the appropriate rate.

For non-residential property (and property development land), the company would be liable to SDLT at the prevailing rates.

3.1.1 The respective SDLT implications for the Council and the company are therefore as follows:

Council

Where the Council needs to purchase land then SDLT would be payable, applying the principles outlined above. If the Council already owns the residential development land there would be no transaction leading to an SDLT liability for the Council.

In the event that the vendor of land has opted to tax, so VAT is chargeable, the value on which SDLT is calculated must include the VAT element.

Arkwood Limited

As the company would be constituted as a company limited by shares and wholly owned by the Council, Group Relief would apply, so no SDLT liability would fall on the company in respect of any property purchases from the Council.

If there is any intention for the Council to sell shares in the company, e.g. to make it into a joint venture with another party, then Group Relief could be withdrawn if the Council's shareholding in the company falls below 75%.

In the event that Group Relief is withdrawn, SDLT would be due based on the rates in place at the time the company purchased the properties.

3.2 Corporation Tax

Arkwood Limited is subject to corporation tax on its profits at the rate of 19% for 2019/20 and 17% from 2020.

Profits would be generated from the sale of properties which would be a mix of both affordable and market sales and rental properties. These would be developed by Arkwood Limited before being sold to an end purchaser.

Profits from sales of property will be treated as trading profits. If Arkwood Limited develops the sites itself, construction costs incurred by Arkwood Limited in building the new properties for sale should be deductible when calculating trading profits. Similarly, any associated marketing and legal costs in respect of the sale will also be deductible. Similarly overhead costs such as staff salaries, finance, administration, etc. will be tax deductible.

Losses incurred in respect of the trading business can be set against total current year profits or currently carried forward against future profits from the same trade only. Losses can also be carried back and offset against total taxable profits arising in the preceding 12 month period. From 1 April 2017, losses incurred in respect of trading are to be given more flexible treatment as was discussed in the budget delivered on 16 March 2016. From 1 April 2017, companies are able to use carried forward losses against profits from other income streams.

Where land or property is acquired from the Council for trading purposes, the corporation tax position would be the same as if it were acquired from a third party. This means that provided the property is for sale, the cost will be deductible when calculating taxable trading profits.

Disposals between connected parties must be made on arm's length terms. If this is not the case the actual costs would be substituted for market value. The Council is planning to transfer the properties to Arkwood Limited at full market value and therefore these conditions should be met.

Financing costs payable by Arkwood Limited to the Council, in respect of the prudential borrowing on-lend to the company by the Council, will be deductible in calculating taxable profits. The transfer pricing rules require connected party transactions to be on an arm's length basis and corporation tax relief may be denied to the extent that the interest payable exceeds market value for similar transactions. It is important that the Council ensures that any loans are made on commercial rates and terms as it must be satisfied that its on-lending does not constitute a breach of State Aid legislation. Even if the on-lending is compliant with the State Aid rules, the transfer pricing rules must also be considered separately and complied with.

Dividends paid from Arkwood Limited back to the Council would be paid out of taxed income and would not suffer further tax in the hands of the Council. Sufficient distributable reserves need to be available to pay a dividend and care should be taken if accounting losses are realised to ensure that there are reserves available.

Group Relief would not be available based on the current group structure because the relevant legislation states that a "company" does not include "a partnership, a local authority or a local authority association". Therefore a holding company structure will, in time, be considered which would mean that ultimately all corporate entities are owned by the Council but via a holding company. Arkwood Limited would then be associated with other companies held by the Council in a group structure and all companies would potentially qualify for Group Relief. Broadly, current year losses in one company can be surrendered to shelter current year taxable profits in another group company and therefore reduce the corporation tax payable for the group as a whole.

For a Group Relief, group to exist in the structure, the ownership condition must be met, where:

- Either one company has to be a 75% subsidiary of the other (i.e. indirect ownership must be at least 75%);
- Both have to be 75% subsidiaries of a third company within the proposed structure.

From 1 April 2017, losses carried forward in one company can also be offset against profits in another group company in a future year and not just in the year that the losses arise. This provides a group with additional flexibility in how profits and losses can be used.

3.3 VAT

3.3.1 **Property Sales**

The sale of residential property, whether freehold or by payment of a premium on a leasehold interest, is free of VAT. New homes are usually zero rated and pre-owned dwellings are exempt. The option to tax, described below, is not effective in relation to residential property so cannot make it standard rated. The sale of undeveloped land, whether intended for development of housing or some other use, is normally exempt from VAT. There are exceptions to this exemption. The most relevant in present circumstances, would be when the vendor has "opted to tax".

The effect of the option to tax is to make what would have been an exempt supply into one that is subject to VAT at the standard rate. A vendor would normally opt to tax in order to obtain or preserve the entitlement to recover VAT it has incurred on the land.

3.3.2 Residential Rentals

The market rental of residential property is exempt from VAT and this cannot be changed by opting to tax. The rental of affordable housing by a local authority is treated as “non-business” but when undertaken by a Company would be exempt from VAT.

Local authority VAT recovery is governed by the VAT Act 1994 s33, so it can recover any VAT incurred for its non-business activities. In practice it can also recover VAT incurred on its exempt activities (through a generous de-minimis regime) as well as its VAT taxable activities.

Other businesses – including the company – are subject to normal VAT rules, so can only recover VAT incurred on VAT taxable activities. Rental of residential property is exempt from VAT, so the company would not be able to recover VAT incurred on its on-going property management costs nor on property maintenance and refurbishment costs.

3.3.3 Application of Tax Principles

The intention is that the Council will sell undeveloped land into the Company, which the Company will then develop and dispose to an end purchaser. It will be necessary to consider the practicalities of this, since the dwellings are likely to be completed in phases, rather than all at once.

3.3.4 Council

The sale of undeveloped land, whether intended for development of housing or some other use, is normally exempt from VAT. The Council has not “opted to tax” any of the pilot sites. If the Council did this on future sites, in which the sale would be standard rated, this would typically be done to preserve the entitlement to recover VAT it has incurred on any costs incurred on the land.

3.3.5 Company

The construction services, understood to be provided by a third party main contractor using a design and build contract, would normally be zero rated. However if there are any direct purchases of goods, these together with directly procured professional services such as architects, engineers and surveyors, would be subject to VAT at the standard rate. The sale of the new dwellings would be zero rated, so the VAT incurred on goods and fees would be recoverable.

VAT incurred on infrastructure works e.g. roads and paths, together with VAT incurred in complying with planning obligations such as section 106 agreements, is treated by HMRC as attributable to the overall development supplies, which are zero rated. This means the VAT incurred would be recoverable.

The first sale of the freehold, or lease in excess of 21 years of a newly constructed dwelling is zero rated, so no output tax would be due. It is assumed for now that for the pilot sites all completed dwellings are sold.

If residential units are retained, the subsequent rental of the dwellings, whether at market rents or affordable rents, would be exempt from VAT. In addition, any freehold sales or grants of long leases in flats or shared ownership dwellings would also be exempt.

If the company's only activity is the exempt rental of property, then it would not be entitled to register for VAT, nor would it be able to recover any VAT it incurs on its costs.

If the company has other activities that are subject to VAT it may register for VAT. Alternatively even without those activities it could be registered in a VAT group with other companies under common control of the Council. In these circumstances, even though it would be VAT registered, the exempt property rental income would mean its ability to recover VAT would be severely restricted.

At present it is the intention of Arkwood Limited to sell completed dwellings but if for example there is a downturn in the property market which impacts on its ability to sell it may wish to retain for rent. The rental of residential property is always exempt from VAT, which would lead to Arkwood Limited needing to restrict its input tax claims. In this instance, as long as the intention remains to sell and with letting being a short term expediency, then HMRC accepts that any VAT incurred in construction (typically professional fees) is attributable to both the intended sale and the current rental stream. This would usually result in the majority of the VAT being recoverable.

If the intention changes so that dwellings are to be retained for investment, the rental income would be exempt and this would adversely impact Arkwood Limited's ability to recover its input tax. Further advice will be sought by the Company as it should be possible to mitigate the adverse effects by careful planning.

3.4 Employment Taxes

3.4.1 **Payroll Taxes and National Insurance**

A new PAYE scheme has been set up with HMRC for Arkwood Limited in order to deal with employees including directors. Arkwood Limited operates PAYE/NIC as normal on all remuneration paid to employees and directors.

If employees of NSDC are to be transferred to Arkwood Limited (this is currently not the anticipated method of staffing the Company), NSDC needs to consider the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). The legislation is complex in this area and legal advice will be sought in this situation from NSDC Legal Services.

It should also be noted that pension obligations require attention with auto enrolment considerations for any employees of Arkwood Limited. Arkwood Limited employees will not be offered the benefit of the LGPS.

3.5 Construction Industry Scheme (CIS)

In most cases Arkwood Limited will be acquiring land and will enter into a construction contract with design and build contractors. CIS would only apply for working with sub-contractors who do not qualify under certain conditions to be paid gross for the works provided to Arkwood Limited. The drafting below is provided for completeness but contractors used would be deemed large enough for this to not apply.

If Arkwood Limited have construction operations which have an annual expenditure of £1million or more for a period of three years ending at the end date of the latest period of account, Arkwood Limited would need to be registered as a deemed contractor for CIS purposes.

If Arkwood Limited makes the payments direct to design and build contractors, it would need to ensure that it carries out the necessary verifications with HMRC, together with making any tax deductions and completing monthly CIS contractor monthly returns.

If Arkwood Limited continues to be involved in similar future developments it would need to remain registered for CIS purposes.

4.0 Equalities Implications

4.1 There are no equalities implications.

5.0 Financial Implications

5.1 None as the report is for information only.

6.0 Community Plan – Alignment to Objectives

6.1 The Company is referenced in the Community Plan under the objective of accelerating the supply of new homes by delivering 300 new homes by 2026/27.

7.0 Comments of Director

7.1 The taxation implications are complex and this paper provides the Committee with an overview of the various strands of UK tax legislation and how it applies to Arkwood Limited, and as a consequence to the Council. The directors of the Company will continue to take advice from professional tax advisers during its evolution and will include appropriate sections on taxation when it presents future financial reports to the Committee.

8.0 RECOMMENDATION:

That Members of the Shareholders Committee to note the report.

Reason for Recommendation

To inform the Committee of the taxation implications of operating a wholly owned development company.

Background Papers - Nil

For further information please contact Nick Wilson on ext 5317.

Nick Wilson
Business Manager – Financial Services

SHAREHOLDER COMMITTEE

17 SEPTEMBER 2019

ARKWOOD DEVELOPMENTS PROGRESS REPORT

1.0 Purpose of Report

1.1 To ensure Members are kept up to date on Arkwood Developments' progress and to provide an update on the Company's financial position.

2.0 Background Information

2.1 The Governance Agreement between the District Council and the Company state that the Company should produce an update report on its performance and its financial position to the Shareholder Committee.

3.0 Proposals

3.1 A full report on the Company's progress and financial position is attached in the **Exempt Appendices**. Key activities include:

- Progressing the site at Bowbridge Road to agreed timescales. It is expected that the tender process will begin late Autumn, a contractor will be appointed in early 2020 and expected to be on site by May 2020. The purchase of the Bowbridge Road site from the Council is set for completion by end of September 2019.
- Development of the Company's website and social media accounts for future communications and sales.
- Undertaking a preliminary viability assessment for a future development site.

4.0 Equalities Implications

4.1 Where appropriate, equalities implications have been considered in relation to the information contained within the relevant Company reports and minutes.

5.0 Financial Implications (FIN19-20/5601)

5.1 There are no direct financial implications arising from this report.

6.0 Community Plan – Alignment to Objectives

6.1 The Company is referenced in the Community Plan under the objective of accelerating the supply of new homes by delivering 300 new homes by 2026/27.

8.0 RECOMMENDATION

That Members note:

- a) the update regarding progress on Arkwood Developments activities; and**
- b) the Company's financial position;**

Reason for Recommendations

To update Members on the progress of Arkwood Developments activities.

Background Papers

Nil

For further information please contact Natalie Cook, Projects Officer on ext 5725.

Karen White

Director - Governance & Organisational Development

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

Document is Restricted

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of the Local Government Act 1972.

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

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