

**CABINET SUB-COMMITTEE  
(LOCAL AUTHORITY TRADING COMPANIES' SHAREHOLDER)  
11 SEPTEMBER 2019**

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: TRADING COMPANY UPDATE**

REPORT OF THE SERVICE DIRECTOR - COMMERCIAL

EXECUTIVE MEMBER: EXECUTIVE MEMBER FOR ENTERPRISE AND CO-OPERATIVE DEVELOPMENT

COUNCIL PRIORITY : PROSPER AND PROTECT AND RESPONSIVE AND EFFICIENT

**1. EXECUTIVE SUMMARY**

1.1 The purpose of this report is to provide the Cabinet Sub Committee (Local Authority Trading Companies' Shareholder) an update on the progress of setting up a trading company.

**2. RECOMMENDATIONS**

2.1 That the Cabinet Sub Committee (Local Authority Trading Companies' Shareholder) note the content of the report.

**3. REASONS FOR RECOMMENDATIONS**

3.1 To keep Members informed on the progress in setting up a trading company.

**4. ALTERNATIVE OPTIONS CONSIDERED**

4.1 As this report is an update no other options have been considered.

**5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

5.1 The Executive Member for Enterprise and Co-operative Development has been kept regularly updated.

**6. FORWARD PLAN**

6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

## 7. **BACKGROUND**

7.1. At the Cabinet Sub-committee (Local Authority Trading Companies' Shareholder) held on 15 March 2018 the following was resolved:

- (1) That it be agreed that no further work be undertaken to investigate buy to let investment options; and
- (2) That further work be undertaken to investigate potential conversion/ development opportunities, subject to future consideration of the business plan for specific proposals.

**RECOMMENDED TO CABINET:** That the principle of setting up a wholly owned holding company and trading companies for the purposes of development; and letting existing and future assets as residential dwellings be approved, and the Chief Finance Officer and Executive Member for Finance and IT be given delegated authority to determine the detail of the structure.

**REASON FOR DECISION:** To explore the options for making best use of existing assets.

7.2. Cabinet met on 27 March 2018 and approved the recommendation above. Since then, officers have worked with a consultant to produce a draft business case and associated documents. This will allow the Council to set up a trading company with the appropriate subsidiary companies - these are provided on the part two report due to the confidential nature.

## 8. **COMPANY UPDATE**

8.1. Although the Council is currently not in a position to register the company, it is felt that an update to this committee allows officers to inform Members on the current progress. This also provides an opportunity for Members to be involved prior to the final documents being completed.

8.2. As explained above, the draft business case and associated documents are provided in the part 2 of this report as they contain commercially confidential information. These documents are fundamental and are required for a Local Authority when setting up a company.

8.3. As an overview, the following sets out some of the keys areas that are part of the draft business case: -

- **Commercial Opportunity** - this section focuses on an assessment of the potential sites that the council owns which could be developed or disposed of to ensure a financial return. It assesses the current market conditions and potential competition, whilst exploring how the company could let or the Council could sell properties to generate capital.
- **Strategic Fit** – specifically linking to the Council's Medium-Term Financial Strategy and the need to optimise income generation and efficiency savings.

- **Corporate Delivery Structure: Local Authority Trading Company** – this section focuses on the Legal structure of a company and the relationship between the Council and the Company. It is proposed to have a Holding Company and two subsidiary companies; a letting company and a development company. As the Council investigates other business opportunities, this structure allows us to add more companies at the subsidiary level as and when required.
  - **LAPC: Commercial Operating Principles** – this section explains how the Council would transfer assets over to the company. It also outlines the company's responsibility to repay the loan back to the Council that is given for the value of the assets.
  - **Financial Information** – this sets out the current capital budget that has been allocated for the provision of housing. It also describes the projects that this money is committed to and the financial assumptions associated with them, including an estimate Return on Capital Employed over the first twelve years of operation. Sections 8.4 - 8.7 below explains the current financial modelling and what officers are currently doing based on this.
  - **Operational Matters** – this section sets out how the company will be run and explores many operational issues from staffing, branding, polices, Data Protection, General Data Protection Regulation (GDPR) and Freedom of Information (FOI).
  - **Governance and Management** – this section covers the proposed governance and management arrangements, which includes an Intelligent Shareholder and Board of Directors. The Board of Directors will include a Managing Director (Steven Crowley), two Directors (Anthony Roche and Howard Crompton) and company Sectary (James Ellis).
  - **Risk Analysis** – a high-level risk analysis has been undertaken focusing on the Council establishment of the company and the initial investment.
- 8.4. The financial modelling for the business case currently demonstrates that at this time, there is not much tolerance, and based on the current forecast the company would just about breakeven, but might make a very small profit. However, as the tolerances are close there is a risk that the company could make a loss if there are large voids or if not all properties are rented out.
- 8.5. The reason why the financial modelling isn't as good as officer would like is because it only included Harkness and Town Lodge (as these are the only projects that have been specifically identified by the Council). Although both schemes are financial viable, the company has to look at the potential loan that it will have to repay (which has to be at a market rate to comply with State Aid requirements), company operating costs and the projected income.
- 8.6. The Company Directors met in late June 2019 and discussed the draft business case and in particular the financial modelling that has been undertaken. It was agreed that it does not makes sense to register the company at this moment as the financial modelling does not achieve a return on investment.

- 8.7. To try and improve the financial modelling, officers are currently investigating the opportunities to invest in other assets that the Council own. The aim is to undertake this work before the end of September 2019. Once this exercise has been completed, the Company Directors will meet and reassess the updated business case. If these works improve the financial viability of the company, the Company Directors will bring a report to this committee to seek approval for setting up a trading company and associated subsidiary companies.
- 8.8. Based on the above, the aim is to register the company before the end of the year and to be ready to trade when Harkness court improvements are completed, which is currently estimated to be April 2020. This project has slipped due to issues with transferring the land back to the Council from Settle and splitting the utilities to ensure the Council has a direct feed. Unfortunately these items have been out of the Council's control and caused a delay on the start date for the refurbishment work.

### **8.9. AGREEING A COMPANY NAME**

- 8.9.1. To ensure that all staff and councillors were involved in this process everybody was given the opportunity to put forward suggested names for the company. These were shortlisted to four and a vote took place, the winning name was agreed.
- 8.9.2. Following the name being agreed Officers have purchased the main domain names to ensure that we have use of them and more importantly to prevent somebody else from purchasing them.
- 8.9.3. Officers have decided not to announce the name of the company until it has been registered, again this to ensure that nobody else registers a company with this or a similar name.

### **9. LEGAL IMPLICATIONS**

- 9.1 There are various legislative provisions that give Local Authorities the power to trade, such as S1 of the Local Authority (Goods and Services) Act 1970, S95 of the Local Government Act 2003 and S1 of the Localism Act 2011 ('the general power of competence'). As part of the assessment of any proposed trading activity pursuant to the commercial strategy, the Council will need to ascertain the most appropriate power and comply with any associated requirements.
- 9.2 Under Part 1 of the Local Government Act 2003, Local Authorities are required to adhere to the Prudential Code as issued by the Chartered Institute of Public Finance and Accountancy (CIPFA). Local Authorities are also required to adhere to any statutory guidance issues by the Minister for Housing, Communities and Local Government.

### **10. FINANCIAL IMPLICATIONS**

- 10.1 Financial implications are covered in the body of the report.

### **11. RISK IMPLICATIONS**

- 11.1 The body of the report has referenced the relevant risks associated with the update.

- 11.2 There is a Corporate Risk entitled “Income Generation”, which assesses the risks associated with the Council adopting a more commercial approach to service delivery, as well as focusing on the many opportunities and positive benefits it could achieve by delivering the aims and objectives of the Commercial Strategy.

## **12. EQUALITIES IMPLICATIONS**

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

- 12.2 The strategy states that all proposed ideas will be of an ethical nature and will be considered to have a positive impact on the community as a basis for consideration. In line with the council’s commitment to demonstrate due regard the Equality Duty, it will conduct equality impact assessments that require them (i.e. any key decisions, major budget implications and any revisions to major service provisions).

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1 The Social Value Act and “go local” policy do not apply to this report.

## **14. HUMAN RESOURCE IMPLICATIONS**

- 14.1 There are no direct human resources implications for this report.

## **15. APPENDICES**

- 15.1 None

## **16. CONTACT OFFICERS**

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18. **BACKGROUND PAPERS**  
None