

**SHAREHOLDERS
COMMITTEE**

7.30 P.M.

25TH OCTOBER 2022

PRESENT:- Councillors Caroline Jackson, Kevin Frea, Dave Brookes, Gina Dowding, Tim Hamilton-Cox, Tricia Heath, Cary Matthews, Sandra Thornberry and Jason Wood

Apologies for Absence

Councillor Anne Whitehead

Officers in attendance:

| | |
|------------------|---|
| Mark Davies | Chief Executive |
| Jason Syers | Director for Economic Growth and Regeneration |
| Joanne Wilkinson | Head of Housing |
| Liz Bateson | Principal Democratic Support Officer |

6 DECLARATIONS OF INTEREST

No declarations were made at this point.

7 ITEMS OF URGENT BUSINESS

There were no items of Urgent Business.

8 MINUTES

The minutes of the meeting held on 26 July 2022 were agreed as a correct record.

9 SHAREHOLDERS TERMS OF REFERENCE (PAGES 6 - 9)

The Chief Executive presented a report which sought to confirm that Shareholder Committee's Terms of Reference prior to being forwarded to Cabinet for approval.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

| | Option 1: Approve the Shareholder Committee Meeting rules | Option 2: Do not approve the Shareholder Committee Meeting rules |
|---------------|--|---|
| Advantages | The Council is adhering to the rules contained with the Shareholders Agreement in reviewing the Terms of Reference annually. | None known. |
| Disadvantages | None known. | No disadvantages known other than not working to the process as outlined in |

| | | |
|-------|-------------|--|
| | | the formerly signed Shareholders Agreement. |
| Risks | None known. | Limited – as set out above in the Disadvantages. |

The officer preferred option is Option 1. By approving the Terms of Reference this allows for appropriate amendments to be made aligned to agreed processes as set out in the Shareholders Agreement.

It was suggested that one change should be proposed by the Committee prior to approval by Council Cabinet and this was that the Shareholder Committee meetings should be conducted in accordance with the rules of Council Cabinet as modified by any rules of the Committee. This change was highlighted in the Appendix to the report (point 3.6.)

It was proposed by Councillor Caroline Jackson, seconded by Councillor Matthews and unanimously agreed when put to the vote:-

Resolved unanimously:

That the revised terms of reference as set out in the Appendix to the report be endorsed by the Shareholder Committee and forwarded to Cabinet for approval.

10 CONDUCT OF SHAREHOLDERS MEETING PROCEDURE (PAGES 10 - 11)

The Chief Executive presented a report which sought to confirm and approve the Shareholder Rules of Meeting.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

| | Option 1: Approve the Shareholder Committee Meeting rules | Option 2: Do not approve the Shareholder Committee Meeting rules |
|---------------|--|---|
| Advantages | Clear understanding of how meetings should be conducted | None known. |
| Disadvantages | None known. | Meetings not subject to rules which allows for potential challenge. |
| Risks | None known. | Limited – although as with above disadvantages – meetings not subject to rules which could present potential challenge. |

The officer preferred option is Option 1. By approving the Shareholder Committee Rules clarity around meeting conduct / processes was clear.

The Terms of Reference did not address the rules by which the Shareholders meetings should be conducted. The draft Shareholder meeting Rules as appended to the report

sought to address this lacuna and to provide clarity to the Shareholder Committee, Directors and officers on how meetings were to be conducted.

It was proposed by Councillor Caroline Jackson proposed, seconded by Councillor Matthews and unanimously resolved:-

Resolved unanimously:

That the Morehomes for the Bay Shareholders Rules of Meeting document be approved.

11 DRAFT BUSINESS PLAN

The Chief Executive introduced a report that sought approval of the inaugural Business Plan for Morehomes for the Bay (Investments) Ltd, jointly with Morehomes for the Bay (Developments) Ltd, prior to a final decision by Lancaster City Council’s Cabinet as per the Companies Articles of Association.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

| | Option 1: Approve the Business Plan | Option 2: Do not approve the Business Plan |
|---------------|---|---|
| Advantages | In so doing the Companies and the Council will be able to seek to realise its strategic ambitions around increasing affordable housing provision within the Lancaster District in the future. Whilst this inaugural Business Plan does not set out any schemes, to have an approved Business Plan is a requirement of the Shareholder Agreement, and puts the Companies in the right position for when it wishes to seek to bring forward schemes at an appropriate time. | None identified. |
| Disadvantages | None identified. | In so doing the Council and the Companies will be unable to seek to realise or be limited in its strategic ambitions around increasing affordable housing provision within the Lancaster District |

| | | |
|-------|--|--|
| | | to its full potential in the future. |
| Risks | No risks identified at this stage, however there will undoubtedly be as a minimum, resource implications in exploring opportunities and undertaking viability assessments in the future as well as requests for working capital loans from the Council. In addition, any viable schemes put forward will require borrowing from the Council to be on-lent putting additional financial pressure on the Council and impact on the overall Capital Strategy programme. Currently there are risks surrounding all development opportunities within the current financial climate linked to increased PWLB rates and inflationary material / works costs which may make schemes previously considered viable as unviable – these details would be outlined in more detail with any future development opportunity reports. | That the Council’s ambitions as set out in the recently approved Lancaster Homes Strategy would not be realised. Additionally, if delays in approval of the Business Plan are experienced there are risks that opportunities which could present themselves would be lost. |

The officer preferred option was ‘Option 1’ – that the Shareholders Committee approves the inaugural joint Business Plan for Morehomes for the Bay (Investments) Ltd and Morehomes for the Bay (Developments) Ltd as detailed at Appendix 1 to the report. This would support the companies in having a working operational plan in how to conduct its business and lays down the parameters for bringing forward schemes in the future.

Councillor Caroline Jackson proposed, Councillor Hamilton-Cox seconded and it was unanimously agreed when put to the vote:-

Resolved unanimously:

- (1) That the Shareholders Committee approve the inaugural Business Plan.

(2) That the Business Plan be shared with the Council's Cabinet for final approval.

12 BOARD UPDATE REPORT

The Chief Executive presented a report that sought to provide an update to the Shareholders Committee around key areas of performance / activity since the last Shareholders Meeting in relation to activity of Morehomes for the Bay (Investments) Ltd and Morehomes for the Bay (Developments) Ltd.

It was reported that Sarah Davies had been removed as a Director from Companies House and Suzanne Lodge had now been registered as a Director for both companies. An account with NatWest Bank had been applied for and the application was pending.

Resolved:

That the report be noted.

13 AOB

There were no items of Any Other Business.

14 DATE OF NEXT MEETING - 17 JANUARY 2023 (FOLLOWING CABINET)

The next meeting of the Shareholder Committee would take place on 17 January 2023 at the rise of Cabinet.

Chair

(The meeting ended at 7.47 p.m.)

**Any queries regarding these Minutes, please contact
Liz Bateson, Democratic Services - email ebateson@lancaster.gov.uk**

Schedule 4**Shareholder Committee Terms of Reference****Lancaster City Council - company group****Shareholder Committee – Terms of Reference****1 Introduction**

- 1.1 Morehomes for the Bay (Developments) Limited (**Development Company**) and Morehomes for the Bay (Investments) Limited (**Investment Company**) and any other companies which, by virtue of a Deed of Accession, are party to the Shareholder Agreement (together, the **Companies**) are companies limited by shares which are wholly owned by Lancaster City Council (the **Council**).
- 1.2 The Companies have been established with general commercial objects but shall only carry out the activities in accordance with clause 2 of the Shareholder Agreement.
- 1.3 The Council has reserved certain functions to itself, as shareholder, in the articles of association (the **Articles**) and the shareholder agreement in place between the Council and the Company (the **Shareholder Agreement**). The purpose of these terms of reference, which sit alongside the Articles and the Shareholder Agreement, is to set out the functions which are delegated by the Cabinet of the Council to the Shareholder Committee (the **Committee**) and the terms on which the Committee will operate.

2 Membership

- 2.1 Members of the Committee shall be the then current Council Cabinet members from time to time.
- 2.2 Members of the Committee shall be appointed for a term equal to that member's term appointed as a Cabinet member of the Council. Members of the Committee shall cease to be a member of the Committee at the end of their term as Cabinet member of the Council.
- 2.3 The Chair of the Committee shall be appointed by the Council.

3 Meetings

- 3.1 Meetings of the Committee shall be held at least quarterly, and as frequently as is necessary for it to exercise its delegated functions.
- 3.2 The quorum for Committee meetings shall be 3.
- 3.3 Decisions at meetings shall be made by a majority vote. The Chair of the Committee shall have a casting vote. Decisions may be taken electronically between meetings.
- 3.4 There shall be a representative of the Committee, who is nominated by the Committee to be responsible for notifying the Company of any decisions made by the Committee in relation to the Company. The Committee may nominate the "Council Representative" as such position is appointed under clause 3.8 of the Shareholder Agreement.

3.5 The Committee may invite any person (including Council officers, Directors of the Company and third party advisors) to attend meetings of the Committee in an advisory capacity, as the Committee deems appropriate.

3.6 Meetings of the Committee shall be conducted in accordance with the Council Cabinet rules as modified by any rules approved by the Committee.

4 **Sub-Groups**

4.1 To assist in its functions the Committee may:

4.1.1 establish and consult standing sub-groups, such as might be required in respect of:

- (a) audit and risk;
- (b) ethical practices; and
- (c) nominations and remuneration, and

4.1.2 may establish and consult ad-hoc or task and finish sub-groups in respect of any matter;

4.1.3 may establish and consult stakeholder groups on any particular aspect or the generality of the objects of the trading companies; and

4.1.4 sub-group or stakeholder group may contain such co-opted members, advisors or observers as the Committee sees fit.

5 **Relationship**

The Committee as it considers appropriate in accordance with its responsibilities and functions described above, may report and make formal recommendations to the Leader, directly or to the Cabinet of the Council.

6 **Minutes and reporting**

6.1 Draft minutes of meetings shall be circulated to the Chair of the Committee for approval within ten (10) working days of the meeting.

6.2 Minutes of meetings will be presented to the next Committee meeting and will also be made available to the Council.

6.3 There will be annual reporting to the Council on the activities of the Committee and operation of the Company, in accordance with the responsibilities set out in these Terms of Reference and the Shareholder Agreement.

7 **Responsibilities**

7.1 The Committee shall be responsible for:

- 7.1.1 the giving of consent in relation to the Council Consent Matters set out in Part 2 of Schedule 1 of the Shareholder Agreement from time to time;
- 7.1.2 scrutinising and reviewing the Business Plan prior to the Cabinet's approval of it;
- 7.1.3 monitoring the operations and performance of the Company through the receipt and analysis of reports prepared and presented by officers of the Company in accordance with clause 7 of the Shareholder Agreement;
- 7.1.4 ensuring compliance with the Council's corporate objectives as set out in the Council's corporate plan;
- 7.1.5 receiving internal audit reports from directors and officers of the Company;
- 7.1.6 receiving quarterly borrowing reports for any lending of the Company; and
- 7.1.7 such other matters as decided by the Council from time to time.

8 **Business Plan protocol**

- 8.1 The Company shall send a revised version of the then current Business Plan to the Committee three (3) months prior to the expiry of the then current Business Plan and invite the Committee to provide comments on the proposed Business Plan.
- 8.2 Each Business Plan shall be substantially in the format of the previous Business Plan (unless otherwise stipulated by the Council).
- 8.3 The Committee shall consider the revised Business Plan at its next scheduled meeting (provided the Committee receives the revised Business Plan with sufficient time to consider the same).
- 8.4 Following the Committee's consideration of the revised Business Plan, the Committee shall respond to the Company with proposed revisions and/or comments and questions to the revised Business Plan.
- 8.5 The Company shall promptly consider the Committee's amendments, questions and/or comments and confirm their acceptance to the same to the Committee as soon as reasonably practicable.
- 8.6 Following such confirmation by the Company, the Committee shall refer the agreed Business Plan to the Council Cabinet for approval. The Company shall promptly respond to any requests, questions and/or comments from the Committee and/or Cabinet throughout the Business Plan approval process set out in this paragraph **Error! Reference source not found.**
- 8.7 Subject to the receipt of Council Consent, before the end of each accounting period, the Directors shall (in accordance with this Agreement and this paragraph 8) consider and, if appropriate, adopt an updated and revised Business Plan for the relevant accounting period. No adoption, variation or replacement of any Business Plan shall take effect unless such adoption, variation or replacement has received Council Consent.

8.8 All Parties shall use reasonable endeavours to enable the Company adopt an updated Business Plan by the expiry of each accounting period of the Company, however this shall not fetter the Committee's or the Cabinet's discretion in reviewing the proposed Business Plan.

8.9 For any period when a proposed Business Plan sent by the Company to the Committee under paragraph 8.1 has not been approved by Council Consent and/or adopted by the Directors in accordance with this paragraph 8:

8.9.1 the relevant existing Business Plan shall continue to be the Business Plan of the Company; and

8.9.2 the Company shall be permitted to re-submit a revised Business Plan in accordance with the provisions of paragraph 8, but always complying with any direction, comment or request raised by the Committee.

9 **Review**

These terms of reference shall be reviewed at least annually, and any amendments shall be approved by the Council Cabinet.

Morehomes for the Bay – Rules for Shareholder Committee meetings**Meetings arrangements**

1. Save as varied by these rules or contrary to the Companies Articles or Shareholder Agreement with the Council, meetings of the Shareholder Committee will be conducted in accordance (as reasonably applicable) with the Council's Cabinet Rules as contained in the Council's Constitution.
2. If there is a conflict between these rules and the Companies' Articles of Association, the Shareholder Agreement, then the Companies Articles of Association and Shareholder Agreement shall take precedence.
3. Meetings will be operated in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, requiring that:
 - a) Agendas are published 5 clear working days in advance of meetings, unless urgency rules apply.
 - b) Private meetings are notified 28 days in advance. Otherwise urgency rules will apply, requiring the agreement of the Chair of Scrutiny.
 - c) Key decisions will be notified 28 days in advance and will appear on the list of Forthcoming Key Decisions. Otherwise urgency rules will apply, requiring that the Chair of Overview and Scrutiny is informed (or if less than 5 clear days in advance, agrees).
 - d) Members of Council will be able to attend public and private parts of meetings unless otherwise notified.
 - e) Members of the public will be able to attend the public part of meetings.
4. Meetings of the Committee shall be held at least quarterly, and as frequently as is necessary for it to exercise its delegated functions
5. The quorum for Committee meetings shall be 3
6. Extraordinary meetings can be called at any time by the Chair or the Company's Board of Directors.
7. Substitutions will not be allowed
8. Meetings will also be attended by at least one Company Director and the Council's Representative (or a nominated officer in the event that the Council's Representative is not able to attend).

9. Democratic services will provide appropriate secretariat and governance support.
10. After each meeting the Chair will approve the minutes of the previous meeting.
11. Company Directors shall take responsibility and ownership of Shareholder Committee Reports.
12. Reports to the Shareholder Committee can be for decision, information and noting.
13. The Chair may nominate a Deputy who may perform all the functions of the Chair in their absence.
14. The Chair of the Shareholder Committee will preside. In the absence of the Chair the Deputy Chair will preside. In both the Chair and Deputy Chair's absence, then a person will be appointed to preside by those present.

Relationship to Overview and Scrutiny

15. The Council's Overview and Scrutiny Committee retains its scrutiny function in relation to the LATCO Shareholder Committee. The O&S Committee will be able to call the LATCO Shareholder Committee and its advisors to account for the progress and performance of the LATCOs in accordance with a scrutiny provision of the Council's constitution.
16. Company Directors act in a way that is legally independent from the Council and their actions as company directors are not open to scrutiny in this way.