

Agenda Item No: 7
Report To: Trading & Enterprise Board
Date: 9th November 2015
Report Title: A Better Choice for Property Ltd. and A Better Choice for Building Consultancy Ltd. Amendments to Shareholder's Agreements
Report Author: Sarah Hartles, Company Secretary



Summary: The Council (via the Trading and Enterprise Board) is asked to consider and approve some amendments to the Shareholder's Agreements between the Council and the two Trading Companies.

The requests seek amendments to some of the timings of reporting both draft and audited financial statements to the council, and changes to a condition concerning the limit beyond which the TEB's approval to individual property acquisitions is needed. It is also requested, due to the low level of activity, that the frequency of formal progress reporting to the TEB is changed from quarterly to six-monthly.

In order to ensure the council's statutory financial reporting arrangements can be met it is being recommended also that an amendment is adopted seeking year end unaudited accounts at an early stage.

Key Decision: No

Affected Wards: N/A

Recommendations: **The Board is asked to:**

- 1. Approve the recommended amendments set out in Exempt Appendix 1 to each Shareholder's Agreement between the Council and the two trading companies;**
- 2. Grant authority to the Head of Legal & Democratic Services to agree and enter into the necessary documents to bring the amendments into effect.**

Policy Overview: As part of the governance structure put in place by the Council, each company and the Council entered into a shareholder's agreement setting out what each company can and can't do and when it needs permission from the Council. These agreements were drafted to reflect the conditions then agreed by the Cabinet and also following a review by the Overview and Scrutiny Committee. The shareholder's agreements can be amended with the approval of the Trading

	and Enterprise Board.
Financial Implications:	None.
Risk Assessment	See para. 9.
Equalities Impact Assessment	N/A
Other Material Implications:	None.
Exemption Clauses:	Appendix 1 - not for publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972
Background Papers:	
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Purpose of the Report

1. This report asks the Board to approve a small number of amendments to the Shareholder's Agreements that are in place between the Council and the two trading companies.

Issue to be Decided

2. Whether to approve the amendments set out in Exempt Appendix 1 (to follow).

Background

3. As part of the governance and control mechanisms that are in place between the Council and its wholly owned subsidiary companies, the Council has entered into a Shareholder's Agreement with each company.
4. The Shareholder's Agreements are binding contracts that set out the relationship between the Council as shareholder and the companies, and what the Council expects of the companies.
5. The Agreements contain a number of reports and documents that the Council requires the companies to provide to the Board and the frequency of those reports.
6. Discussions between the companies' representatives and council officers have taken place about the current required reporting frequencies in the light of the relatively low levels of activity to date and anticipated. As a result, it is suggested the current quarterly reporting requirement to the TEB should change to six monthly. It is felt this would be more proportionate, but equally not remove a need for any matter needing special consideration by TEB to be reported at the appropriate time.

Further, as the companies' financial activities, in particular that of the property company, may fall within the scope of statutory accounts consolidation (grouping) requirements on the council, and as the statutory timetable is being brought forward, it is important that draft and unaudited management accounts are provided at a time that would allow for inclusion in the council's accounts. A change to the agreements is recommended to reflect this.

7. Another change has been discussed between the property company and the council that would provide a higher threshold for individual property acquisitions before the specific approval of the TEB is needed (as per the current agreement this is set at £250,000). In the current market this threshold can provide a timing constraint before the company is able to make acquisition offers. A higher limit is therefore recommended. Nevertheless, if

approved, this would not avoid the need to seek the TEB's approval to any proposed acquisitions that are outside of the business plan endorsed by the TEB.

8. In accordance with the Board's Terms of Reference, the Board can review the matters set out in the Exempt Appendix and approve amendments to the same.

Risk Assessment

9. The Board can review the frequency of the reports at any time and can request additional reports or interim reports if at any time it felt that it needed more information. As a result, the risks to the Council as a result of these amendments are low.

Other Options Considered

10. The reporting frequency could remain as it is, leading to potentially unnecessary reports being produced.

Handling

11. If the Board approves these amendments, then the necessary documentation will be concluded to bring them into effect immediately.

Conclusion

12. The proposed amendments are seen by council officers and the companies as proportionate and more practical than those that were originally agreed. This has been evidenced in the first year of trading and the amendments are suggested to the Board with this experience and what is anticipated.

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