

Wiltshire Council

Cabinet

14th July 2020

Subject: Stone circle company business plans

Cabinet Member: Cllr Pauline Church Cabinet Member for Finance procurement, and commercial investment

Key Decision: Key

Executive Summary

This report presents the proposed revised business plans for the Stone Circle Companies for the financial year 2020/21. The shareholder agreement between the Council (shareholder) and the companies requires the companies to present proposed business plans three months before the forthcoming financial year. Although the Companies proposed business plans within that time scheme the revision of the Council's capital programme has led to the companies proposing revised business plans. The boards of the three companies met on the 11th June 2020 to consider and recommend the revised business plans for 2020/21 onwards.

Stone Circle housing company is proposing an acquisition programme funded by £ 5m of loan finance from the Council. Stone Circle development company is proposing development of 4 sites that are currently owned by the Council. If the proposed business plan is agreed it will enable Stone Circle development company to begin the work to present project plans to the Council for the developments as required under the shareholder agreement.

In addition Cabinet is asked to consider changes to the Council nominations to Directors of the Companies.

Proposal(s)

1. Cabinet is asked to agree the revised business plan for Stone Circle housing company as set out at Appendix A in the exempt part of the agenda.
2. Cabinet is asked to agree the revised business plan of Stone Circle development company as set out at Appendix B in the exempt part of the agenda.
3. Cabinet is asked to agree the Council nominee to the board of Stone Circle holding company, Stone Circle housing company, Stone Circle development company and Stone Circle Energy is Alistair Cunningham as an independent Director.

4. Cabinet is asked to agree that the appointment of the vacant independent board member of Stone Circle Housing company is delegated to the Chief Executive officer in consultation with the cabinet member for Finance & procurement and Commercial Investment.
5. Cabinet is asked to agree to delegate authority to conclude detailed contract arrangements with the Stone Circle Companies to the Director of Housing and commercial development in consultation with the Director of Finance and procurement and Commercial Investment and the Director of legal, electoral and registration services

Reason for Proposal(s)

The proposals aim at complying with the shareholder agreement the Council has with the Stone Circle Companies to agree the business plans and consequent actions that the Council needs to consider.

Chief Executive Officer - Terence Herbert

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Purpose of Report

1. The purpose of this report is to present to cabinet the proposed business plans for the Stone Circle Companies, as well as consider establishing Stone Circle Energy company.

Relevance to the Council's Business Plan

2. The proposals in the report directly support the Council's business plan to Grow the economy by facilitating the provision of affordable homes, and developing new housing on public land.

Background

3. Cabinet agreed the business plans of the Stone Circle companies at its meeting on the 7th January 2020. The Cabinet decision to revise the capital programme and hence loan finance to the companies, as well as one potential development site proving to be unviable has meant the companies have had to revise the business plans they recommended to the shareholder. In addition due to a Stone Circle housing company Director vacancy and change in the Council nomination there is a need for Cabinet to consider Director nominations. This report provides the business plans for the companies as required under the shareholder agreement with the Council as well as seeks consideration of Director nominations.

Main Considerations for the Council

4. Stone circle Housing company

It is proposed that there will be 22 property acquisitions in 2020/2021 with acquisition costs of £5 million, 78 units for years 2021/2022 and then 50 units for 2022/2023 to 2024/2025. Previously year one assumed 10 units with 50 for each of the subsequent 4 years and a final year 6 with 40 units. Of these units, following negotiation with the Alabare Christian Care & Support charity 11 homes are to be acquired for their tenants over the first 2 years. The Company will receive the equivalent of the rents for these but will additionally benefit from not having to allow for voids or routine maintenance costs

5. The loan has been changed to a revolver loan and the interest rate of 3.6% has been maintained.
6. Appendix A in the exempt part of the agenda provides the summary business plan for Stone Circle Housing company.
7. The independent Director recruited to Stone Circle housing company resigned on the 5th February 2020. Applications have been sought for a replacement but recruitment has been delayed due to the impact of the Covid-19 virus. Interviews are scheduled to take place and it is recommended that appointment is delegated to the Chief Executive officer in consultation with the cabinet member for Finance and procurement.
8. **Stone Circle development company**
Stone circle development company business plan has been revised due to the removal of New Zealand Avenue as a development opportunity. The site was not capable of commercial development and .will be developed as affordable housing within the Council's Housing revenue account and the development will be subsidised accordingly.
9. The revised business plan is now based on developing four sites which may deliver in region of 103 units.
10. Appendix B sets out the proposed business plan
11. **Director nominations to the Stone Circle companies.**
Under the shareholder agreement the Council has the power to remove and appoint Directors to the companies. The Board of the companies are currently composed of five Directors. The Directors are one Council officer nominee, three Councillor nominees (two cabinet members and a minority group representative) and one independent Director . All those Directors become Directors on the Stone Circle holding company board.
12. It is proposed to change the Council nominee of an officer to become an independent Director. Given the role that Alistair Cunningham has played chairing the boards of the companies to date so as to maintain continuity and momentum it is recommended that Alistair is nominated as Director to take the place of the Council nominee. As Alistair will nor longer be employed by Wiltshire Council his position will in effect be as an independent Director.
13. Following the resignation of the independent Director of the Stone Circle housing company applications for a replacement have been made by the Council. Due to the impact of the Covid-19 virus it has not been possible to complete interviews to date. Therefore, it is recommended that following the interview process the nomination is delegated to the Chief Executive officer in consultation with the cabinet member for finance and procurement.

Overview and Scrutiny Engagement

14. The Chairman and Vice-Chairman of the Environment Select Committee and Chairman of the Global Warming & Climate Emergency Task Group were given a briefing on 1 July 2020.

It was noted that an additional Director is needed on the Stone Circle Boards following the stepping down of the Council's joint Chief Executive. This person should be qualified, experienced and independent – ideally one individual. Also recognising that under the current purposed structure any nomination of a Council officer might well lead to significant conflicts of interest.

Safeguarding Implications

15. There are no safeguarding implications stemming from this report.

Public Health Implications

16. There are no public health implications stemming from this report.

Procurement Implications

17. All procurements delivered as part of the services sold to the companies will be conducted in accordance with the council's rules and any relevant Public Procurement Regulations

Equalities Impact of the Proposal

18. There are no equality implications stemming from this report.

Environmental and Climate Change Considerations

19. The Stone Circle development company proposals do not propose carbon neutral development. To reduce the carbon footprint of the developments would require additional development cost. If those costs did not realise a premium on sale prices the effect would be to reduce the return from the developments to the shareholder. The Council could require development with reduced carbon footprint for developments where a premium on sale prices is a possibility.
20. Stone Circle energy company activity is directed at providing development that will help the Council achieve carbon offset by the production of sustainable energy that will be sold to third parties.

Risks that may arise if the proposed decision and related work is not taken

21. If the decisions in this report are not taken the companies that the Council has set up will not be able to deliver the business plans that the Council has agreed and the consequent development and financial benefits for the Council.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

22. The proposals in this report seek cabinet consideration of business plans presented by the Stone circle Companies. The Council originally procured independent professional advice concerning the business plans . The companies have procured independent professional advice to support their proposals. The advice provided will mitigate risk for the Council. In addition the Council, as shareholder can control development proposals via agreeing to the project plans submitted by the companies which again mitigates the risk exposure of the Council.
23. There is a risk that PWLB rates will rise, this will impact on the interest rate the Council is able to lend to the Companies at. If rates are held at the

current rates modelled, then the premium earned by the Council would be reduced. If rates are amended and increased there would be implications for the companies Business Plans and viability. This will need to be assessed and monitored when Loans are drawn down.

Financial Implications

24. The Business plans for Stone Circle Housing Company and Stone Circle Development Company have been updated and extracts are shown per Appendix B and C respectively.
25. A key change that is included in the revised Business Plans is the movement from a fixed Loan portfolio to a revolver loan. This will be easier for the Council to administer and provide the Council and Stone Circle Housing Company and Development Company with greater flexibility.
26. The Companies will only draw down on the loans when required up to the level agreed in the Business Plan's and Loan agreements for that financial year. The companies will be able to make Loan repayments at any stage so will not be sat on large cash balances.
27. This does reduce the interest that the companies are paying, hence reducing the premium Wiltshire Council will make on the loan's; but administratively and for treasury management purposes will be more straight forward and manageable for both parties.
28. The rates assumed in the Business Plan remain unchanged for Stone Circle Housing Company at 3.6%. Wiltshire Council would make a premium of 0.7% based on current PWLB rates and indicative figures are shown below:

Stone Circle Housing Company:

- First year is £0.030 million
- Years one to five, a total of £0.959 million, previously £0.760 million.
- over the 50-year plan a total of £13.592 million, previously £14.439 million.

29. The interest rate for Stone Circle Development has been amended in the revised Business Plan so that the Working Capital loan and the Development loan are at the same rate and both will operate on a revolver Loan facility. This will be set at a commercial rate, the rate assumed in the Business Plan is 7% and indicative figures of the premium the Council would earn are shown below:

Stone Circle Development Company:

- £1.097 million for the revised Business Plan

Legal Implications

30. The Council's approval of the Holding Company business plan is a requirement under the Shareholders Agreement. The Housing Company and Development

Company business plans must be approved by the Council as ultimate shareholder in accordance with the Shareholders Agreements.

31. The financing arrangements have been structured in accordance with state aid law. The Council will need to continue to monitor interest rates to ensure state aid law continues to be complied with.
32. The Council's powers to establish the Stone Circle Companies were set out in the report to Cabinet considered at the meeting on 23rd July 2019. The associated legal implications were also set out in that report.
33. The Council will need to continue to be mindful of the governance arrangements underpinning the setting up and operation of the companies and any conflicts of interest managed appropriately. There is potential for conflicts of interest to arise, as officers or members who are appointed as directors of a company have a duty to act in the best interests of the company and this may not always coincide with their role and responsibilities as council employees or members. Special provisions have been incorporated into the articles of association to address the issue of conflicts of interests and specific legal advice will need to be sought where potential conflicts are identified.

Workforce Implications

34. There are no workforce implications stemming from this report.

Options Considered

35. The Council has previously agreed to establish the stone circle companies to enable them to trade and maximise the return from Council assets and also to provide rented housing. The proposals in this report allow implementation of the business plans of those companies. An alternative would be to look to dispose of Council assets on the open market but that would not maximise the return for the Council and as such it has been discounted.
36. The Council could seek an additional independent Director from an open application process. Given the role that Alistair has played for the companies and his experience and knowledge of the Council it is unlikely that another candidate would be able to demonstrate similar attributes. Moreover, appointing Alistair will maintain continuity and momentum and it is for those reasons seeking an additional independent applicant is not recommended.

Conclusions

37. The report proposes agreeing the business plans for Stone Circle holding company, Stone Circle housing company and Stone Circle development company. The report also proposes changes in the Directors nominated in accordance with the shareholder agreement.

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Appendices

Appendix A – Stone Circle housing company business plan

Appendix B – Stone Circle development company business plan

Background Papers

The following documents have been relied on in the preparation of this report:

Stone Circle company board minutes

Stone Circle company business plan