

**COMPANIES GOVERNANCE FRAMEWORK AND BUSINESS CASES FOR VICTORIA
SQUARE WOKING LTD AND THAMESWEY DEVELOPMENTS LTD (SHEERWATER)
SUPPORTED BORROWING**

Executive Summary

This report provides a summary of the Companies' Governance Framework to be adopted by the Shareholder Liaison Service of the Council to strengthen the arrangements the Council and the Council's companies have in place.

The Companies' Governance Framework provides a comprehensive, scalable set of requirements for all companies in which the Council has an interest. It is based on current guidance from Lawyers in Local Government and the UK Corporate Governance Code. The latter is produced by the Financial Reporting Council. The Framework also sets out how the Council will interact with the companies as client and shareholder. It sets out a process for developing and agreeing business plans and a reporting framework that will produce critical information for each company that the Council will need to review, understand, and respond to appropriately.

Furthermore, the report provides an update on the two business cases submitted to Government through the Department for Levelling Up Housing and Communities (DLUHC) in respect of Victoria Square Woking Limited (VSWL) and the ThamesWey Housing Limited (Sheerwater), which the Executive is asked to note.

In both cases the business cases were to enable the completion of partially completed capital works that were in the 2023/24 Capital Programme. They set out the reasoning as to why it is in the broader interests of the public purse for the Government to allow the Council to continue to access Public Works Loan Board (PWLB) borrowing to enable the completion of these schemes. In brief, the additional funding of c.£78m allows the companies, and ultimately the Council as lender, to enhance the value of these assets by an estimated £250m over the value that could be obtained if the additional funding had not been made available. Whilst enhancing the value of the assets, their current value, if sold now remains insufficient to full repay the money borrowed for their construction.

Following consideration of the business cases, the Council is now able to access PWLB borrowing to fund the completion of these schemes. Monthly requests for draw down of borrowing requirements are made and supported by detailed expenditure analysis and cash flow forecasting.

Recommendations

The Executive is requested to:

RESOLVE That

- (i) the Companies' Governance Framework be adopted in full and applied to the Council itself and to all Council owned or part owned entities, and that any Shareholder directions required to implement the Framework be delegated to the Monitoring Officer; and
- (ii) the update on the business cases be noted.

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Reasons for Decision

Reason: Adoption of the Framework will bring the companies and the Council's governance arrangements up to a recognised standard, and in doing so protect the interests of all parties.

The Executive has the authority to determine the recommendation(s) set out above.

Background Papers: [Governance, Financial and Commercial Review of Woking Borough Council for the Secretary of State for Levelling Up Housing and Communities - May 2023.](#)

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1.0 Introduction

1.1 Companies Governance

1.2 On 25 May 2023, the Secretary of State for Levelling Up, Housing and Communities announced an intervention package and a set of Directions to ensure that the Council was able to comply with its best value duty under Part 1 of the Local Government Act 1999.

1.3 The basis for the intervention is the following: -

- “The scale of the financial and commercial risks facing your Authority, which are compounded by the Authority’s approach to financial and debt management, corporate governance, including scrutiny of strategic financial decision making, commercial projects and property management. This has been made clear by the findings of the External Assurance Review that Minister Rowley commissioned in January.
- The failure of the Authority to provide assurance to Ministers and the Department on the adequacy of the actions that it is taking to address the issues or provide assurance of its capacity to take the necessary action, considering the scale and pace of the response required.”

1.4 The resultant Improvement and Recovery Programme (IRP) is the Council’s response to the review. This programme sets out the range of activities that must be completed.

1.5 The Commercial Theme within the IRP sets out a requirement to develop appropriate companies’ governance arrangements that will apply to both the Council, as shareholder and client, and to the companies in which it has an interest. The Companies’ Governance Framework (CGF) sets out to fulfil this requirement. The CGF may be found at Appendix 1.

1.6 Business Cases and Capital Investment Programme for Council Controlled Companies

1.7 The Medium-Term Financial Strategy reported to the 28th September meeting of Council incorporated an addendum relating to capital investment for Council-controlled companies.

1.8 As previously reported in the Council’s Medium Term Financial Strategy (MTFS), it owns, or part owns twenty-four companies and due to its financial position it will not be able to support or subsidise these moving forward as it has sought to do in the past.

1.9 The main focus of significant work by officers and Commissioners that has been fed into Government has been on the Victoria Square and Sheerwater Regeneration schemes, both of which still have significant capital spending requirements relating to assets currently under construction but not complete.

1.10 Despite the Council’s critical financial position, the Council has progressed positive and supportive discussions with Government in respect of proposals that require borrowing support to get the best outcomes for the public purse and deliver the best value for money returns from the historic investments this Council has made.

1.11 As a responsible Council we will only proceed with additional investment and borrowing where it has Government support. These discussions follow those principles within the S114 report and adopted in the Medium-Term Financial Strategy.

1.12 Business Cases have been presented to Government to secure their support in relation to completing, or partially completing, certain specific schemes that were already in delivery by companies owned by the Council when the Section 114 report was issued.

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- 1.13 Furthermore, companies are taking independent advice in relation to the assurances that they need to seek from the Council as funder in order to continue to operate the companies as going concerns whilst assets are completed in accordance with a managed exit plan.
- 1.14 To enable these activities to be undertaken in a managed way, the Council has agreed to the deferral of loan repayments and interest due from companies to the Council until 31st December 2023. This decision has been taken following external legal advice and is supported by Commissioners. The implications of these actions are being managed within either existing resources or will be supported by additional resources from Government when business cases evidence this support is in the best interests of the public purse.
- 1.15 The Council as funder has received external legal advice on the subsidy control regime in respect of the implications of the both the loan repayment deferral and the provision of capital funding provided by Government.
- 1.16 The Council's investment programme accommodates investment where full Government funding and support exists to facilitate the completion of assets that are partially complete and to deliver best value for the public purse. This is in line with the capital planning principles set out in the July MTFS and the s114 report as set out below.
- 1.17 The July MTFS report equally referred to capital planning principles for the period of this MTFS and the financial year 2024/2025 within which all new proposals must fit. Principle C referred to items where, following support from Government and Commissioners resources are provided for specific schemes that were already in delivery when the s114 report was issued. Investment in Victoria Square and Thameswey (for Sheerwater Regeneration) can, therefore, continue where it is in accordance with Principle C.
- 1.18 The business cases for each of Victoria Square Woking Limited (VSWL) and ThamesWey Housing Limited (Sheerwater), share the same essential aim: to avoid imminent insolvency and to protect and maximise the value of assets held by the companies to subsequently reduce the debt burden on the Council as far as possible. The business cases for each are included in the Part 2 report due to commercial sensitivities.

2.0 Summary of the Companies' Governance Framework

- 2.1 In line with the requirements of the Lawyers in Local Government guidance and the UK Corporate Governance Code, the Companies' Governance Framework (CGF) creates a number of obligations with which, on a comply or explain basis, companies in which the Council has an interest will have to comply.
- 2.2 The CGF also sets out the obligations in law that any and every company director has a duty to uphold and a useful explanation of the governing documents for companies.
- 2.3 Subject to adoption of the CGF by the Executive, the Framework will be applied to both the Council and the companies. Initially, a compliance assessment will be carried out followed by implementation of a rectification plan.

3.0 Summary of the Business Cases

3.1 Victoria Square Woking Limited

- 3.2 Victoria Square is a regeneration project in Woking Town Centre comprising 429 build to rent apartments, a 189 room Hilton Hotel with conferencing and banqueting facilities, 192,000 sq. ft of retail, food and beverage, leisure and education uses, 1,560 car spaces and substantial public realm. The development has a completed capital value of £193.25m, as valued by Knight Frank in December 2022.

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- 3.3 The significant majority of the Victoria Square regeneration project was completed on 22 March 2022. However, failure of the rain screen cladding system to the hotel has led to prolonged delay to this element only and anticipated practical completion in Summer 2024.
- 3.4 The retail, leisure, food and beverage and education elements of the scheme are fully let and income producing, with the exception of two small vacant retail units, one of which is under offer, and the medical centre which is in temporary use. In addition, the red and green car parks are under management by Woking Borough Council (WBC) and are revenue producing to WBC with discussions on management agreement and leasing options to secure that income for VSWL.
- 3.5 The Marches, (two build to rent residential towers comprising 429 apartments), are now 98% let, and close to stabilisation. In addition, the public realm has been completed and is enjoyed by visitors to Woking town centre.
- 3.6 Completion of the hotel is fundamental to the overall regeneration project, offering 189 rooms, exceptional banqueting, and conference facilities, as well as food and beverage and other amenities. It is anticipated that it will drive significant additional income from the retail, Food & Beverage, and car park assets in particular, as well as wider revenue benefits to the town centre.
- 3.7 There is a need for additional capital funding in order to complete the scheme and finalise accounts. In parallel, letting of the remaining retail units can be achieved, stabilisation of turnover and turnover rents can be established, the Marches will reach stabilisation and the car parks arrangements can be agreed and completed.
- 3.8 The business case asked for further funding of £22.23m to keep the company solvent, allow works to be completed by September 2024, and to bring the development to a fully operational state.
- 3.9 The business case clearly articulates that completion of these phases generates a significant uplift in value compared to ceasing development. It also sets out the wider social and economic benefits, including the contribution to meeting housing needs.
- 3.10 Following consideration of the business case, the Council is now able to access PWLB borrowing to fund the completion of the VSWL. Monthly requests for draw down of borrowing requirements are made and supported by detailed expenditure analysis and cash flow forecasting.
- 3.11 The business case and supporting independent valuations are included in the Part 2 report due to commercial sensitivities.
- 3.12 **ThamesWey Housing Limited (Sheerwater)**
- 3.13 The meeting of the Executive on 5th October 2023 received an update report on the ThamesWey Housing Limited Sheerwater Regeneration and the outcomes of public and stakeholder consultation regarding the future of the Sheerwater Regeneration Project.
- 3.14 The Council's vision for Sheerwater is to create a contemporary and sustainable 'Garden Suburb' that will provide high quality, mixed tenure homes, improved open green spaces and new leisure and community facilities.
- 3.15 The £492 million regeneration scheme was intended to be developed by ThamesWey Developments Limited (TDL) to deliver 1,142 new residential units, along with the associated community infrastructure, over a phased programme lasting circa 9 years.

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- 3.16 Following the issue of the S114 notice on 7 June 2023, it became clear that the Council cannot afford, and ThamesWey cannot rely on, the future borrowing required to complete the regeneration. Subsequently, in July 2023, the Council agreed that the existing Development Agreement between the Council and ThamesWey for the delivery of the Sheerwater Regeneration Project be brought to an end and no new phases would commence following those currently under construction.
- 3.17 Three residential phases are currently under construction with Copper and Red phases due to complete this year and Yellow phase due to complete in late 2024:
- Copper phase consists of 88 houses, of which 13 are affordable and 75 are proposed to be disposed of on the open market.
 - Red Phase is a medium rise development consisting of ten town houses, seven maisonettes, 68 sheltered one-bedroom apartments and a block of 39, one, two and three bed roomed apartments. The phase also includes the energy centre and six ground floor retail units.
 - Yellow Phase is a medium rise mixed use development consisting of 168 apartments (consisting of 102 affordable units and 66 open market units), some retail units and community spaces. Following the Council's decision to bring the Development Agreement to an end, ThamesWey Developments Limited intends to apply to the Local Planning Authority for the conversion of the consented new community space into 19 additional residential units.
- 3.18A business case for funding of £57.7 million (including land payments and professional costs) was developed and discussed with Government in order to complete these three active construction phases of the Sheerwater regeneration. The business case clearly articulates that completion of these phases generates a significant uplift in value compared to ceasing development. It also sets out the wider social and economic benefits, including the contribution to meeting housing needs.
- 3.19 Following consideration of the business case, the council is now able to access PWLB borrowing to fund the completion of the Sheerwater Regeneration Project for Copper, Red and Yellow phases. Monthly requests for draw down of borrowing requirements are made and supported by detailed expenditure analysis and cash flow forecasting.
- 3.20 The business case and supporting independent valuations are included in the Part 2 report due to commercial sensitivities.

4.0 Corporate Strategy

- 4.1 The Companies Governance Framework fulfils part of the Corporate Strategy, as reflected in the Improvement and Recovery Plan, and places congruence between any companies in which the Council has an interest and the Council's strategic aims, at its heart.
- 4.2 The business cases for VSWL and ThamesWey Housing Limited (Sheerwater) support the Council's strategic aim of reducing the unaffordable debt burden it currently faces.

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5.0 Implications

Finance and Risk

- 5.1 The Governance framework has no direct financial implications – its implementation will improve financial and risk monitoring of the companies.
- 5.2 There are two significant financial issues arising from the Victoria Square and Sheerwater business cases, explained below.
- 5.3 The first issue is the deferral of loan interest payments until the optimal sale of assets can be achieved. This issue is not specific to the business cases and would be a budget pressure for the Council under any scenario. This amounts to c £45million in the current year. The Government is aware of this and the Council is in discussions with them on how these costs can be rolled up until the assets are disposed of. The appropriate legal advice has been obtained which is included in the business cases.
- 5.4 The second is the capital financing costs of the £78million of borrowing approved for Public Works Loan (PWL) funding. The annual costs of this will be approximately £8million until the future of the assets is determined as part of the strategic asset strategy. Again, as part of the approval of the business cases it was acknowledged that the Council would require support to meet these costs.
- 5.5 Whilst any additional borrowing is not ideal given the scale of the Council's debt portfolio to revenue budget, the objective is to minimise the overall impact on the public purse and achieve the appropriate balance between maximising asset value and the need for rapid disposal to reduce the level of outstanding debt. There are also broader social and regeneration benefits to Woking from not leaving partially completed and blighted developments that depress asset values and would have a significant impact on the residents of the Sheerwater Estate.
- 5.6 The additional costs and risk identified here are being managed within the wider context of an asset disposal strategy and debt reduction plan. This is based on the agreed approach in the Improvement and Recovery Plan to minimise losses to the public purse and maximise the value of asset for future disposal. The discussions with Government will also address the requirements to address the issues set out in the S114 notice in order to deliver a legal budget for 2024/25.

Equalities and Human Resources

- 5.7 The Council will ensure that Equality Impact Assessments will be carried out at the necessary stages of the IRP as it progresses. Staff will be fully briefed and formally consulted on any changes as part of the Organisational redesign.

Legal

- 5.8 The CGF takes into account good practice guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA), Local Partnerships, Lawyers in Local Government as well as Companies Act 2006 and Local Government Acts.
- 5.9 Legal advice was sought for both business cases on the issue of whether deferring the recovery of debt payments would breach the Subsidy Control Act 2022. There is no breach of the Subsidy Control principles.
- 5.10 There are no other legal implications in noting the report or for the endorsement of the CGF.

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6.0 Engagement and Consultation

6.1 For the business cases: His Majesty's Treasury, the Department for Levelling Up, Homes and Communities, WBC Commissioners, and senior officers.

6.2 For the Companies' Governance Framework, WBC Commissioners, and senior officers.

REPORT ENDS