

**ESTABLISHMENT OF THE LOCAL AUTHORITY TRADING COMPANY**

Committee: Council

Date: 7 January 2016

Author: Chief Executive, Director, Commercial and Corporate Services, Chief Financial Officer and Strategic Land Advisor

[Q158]

1.0 ISSUE

1.1 The establishment of the East Cambridgeshire Local Authority Trading Company (LATC).

2.0 RECOMMENDATIONS

2.1 Members are requested to approve:

- (i) the overall business plan (OBP) as detailed in Appendix 1;
- (ii) the business plans for property development and commercial services, attached as Appendices 2 and 3;
- (iii) the Shareholder Agreement and Articles of Association detailed in Appendices 4 and 5;
- (iv) the funding strategy detailed in paragraph 5.0;
- (v) the composition of the Board as set out in Appendix 1 (ref: P9 para 4.1.1);
- (vi) the appointment of Paul Remington as Chairman of the LATC;
- (vii) the risk management plan attached as Appendix 6;

Furthermore, in order to implement 2.1 (i) to (vii), authorise and approve:

- (viii) the Chief Financial Officer to enter into a loan agreement based on the heads of terms detailed in Appendix 7;
- (ix) the Chief Executive and Legal Services Manager to complete the necessary legal documentation to implement the above;
- (x) the Deputy Monitoring Officer to amend the Constitution, as necessary, to implement the above;
- (xi) the Chief Financial Officer to ring fence the affordable housing additional element of New Homes Bonus payable to the CLT on completion of each property.

### 3.0 BACKGROUND

- 3.1 The Council on 16 July 2015 (ref: Agenda Item L3) agreed, in principle, to establish a LATC. It also set up the LATC Establishment Committee to report to Council by January 2016 with proposals to formally establish the LATC.
- 3.2 The LATC Establishment Committee agreed on 17 December 2015 to recommend to Council to approve the establishment of the LATC, specifically recommendations detailed in 2.1 (i) to (vi) and (viii) to (xi). In addition, the Committee noted the draft risk register and instructed officers to produce a final draft for Council approval (see recommendation 2.1 (vii)).
- 3.3 There have been a number of specific amendments/addendums to the draft documents agreed by the LATC Establishment Committee, proposed by officers in consultation with the Chairman of the Committee. Any changes are highlighted specifically in relation to Appendices, 1, 3 and 4 for Members attention.

### 4.0 PROPOSALS/CONCLUSIONS

- 4.1 The high level overall business plan (OBP) is designed to provide a framework for the strategic and operations of the proposed LATC, specifically:-
- benefits and advantages of the East Cambridgeshire Trading Company;
  - recommended governance structure;
  - board and management structures;
  - financial review of the LATC's forecast performance;
  - risk assessment;
  - timescales for implementation.

The OBP is attached as Appendix 1 for Members approval.

- 4.2 The business plans for the commercial services and property development were agreed by the LATC Establishment Committee on 27 November 2015 to recommend to Council for approval. There have been amendments to Appendix 2 and 3 in consultation with the Chairman of the Committee.
- 4.3 The Shareholder Agreement (as amended and agreed with the Chairman of Committee) is attached as Appendix 4. The Articles of Association is also attached as Appendix 5.
- 4.4 The composition of the Board is detailed in the OBP (Appendix 1 P9 4.1.1) and the management structures are summarised in the OBP (Appendix 1 P9/10 4.1.2-4.1.4).
- 4.5 The LATC Board requires an independent Chairman; the job specification and recruitment process was agreed by LATC Establishment Committee on 27 November 2015. The Council received four applications, of which, three were

shortlisted by the Chief Executive and Director, Support Services. The three candidates were interviewed by Members of the LATC Establishment Committee on 16 and 17 December 2015. The Chief Executive, in consultation with the Committee, recommends the appointment of Mr Paul Remington as Chairman of the LATC.

- 4.6 The final risk management plan is also attached as Appendix 6 for Council approval.
- 4.7 From January Council until the formal establishment of the LATC, there will be a requirement to authorise specific officers to implement the decisions of Council. These include secondment agreements, service level agreements for support services, operational contracts, for example. There will also be a requirement to amend the Constitution during this period (see paragraph 2.1 (x)).
- 4.8 There is also a recommended policy change, which requires full Council approval (ref: para 2.1 (viii)), specifically to ring fence and allocate the additional element of the New Homes Bonus received by Council for each affordable housing unit to CLT's. This will provide an additional financial incentive to CLT's payable on completion of each dwelling, which will attract a rate of £350 per annum per dwelling for four years (under the amended scheme).
- 5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT (EIA)
- 5.1 The Council's financial position and forward projections show that the revenue budget is balanced in 2016/17 and 2017/18. Further savings and/or income will be required from 2018/19 to balance subsequent years budgets. The Council has healthy cash balances, which will enable it to partially fund the LATC and the Leisure Centre project.
- 5.2 The Council is debt free and has projected cash balances available over the period of the MTFs (ie up to 2019/20) to a maximum of £13 million. The Council will utilise these cash balances to fund early loan drawdowns and then for a short term (2 to 3 years, subject to the repayment profile to be agreed by the LATC) borrow externally, to enable both the LATC and the Leisure Centre to be funded.
- 5.3 The LATC will require a loan with a drawdown facility as cash flow requirements dictate. The maximum borrowing requirements for the company is £5 million, which is realised in Q1 of 2017/18. This coincides with the timeline for the most significant spend on the leisure centre project, meaning that the Council would enter into external borrowing at that time, albeit from a couple of years. The LATC and Leisure Centre will commence repaying of their borrowings soon after. The draft loan heads of terms are attached as Appendix 7.
- 5.4 The Council is required to charge a commercial interest rate for the loan, so as to not contravene State Aid regulations. The final, agreed rate will depend on the prevailing interest rates at the time. Within the overarching business plan, it is assumed that a 6% interest rate will be charged by the Council to the LATC. This interest will be payable on the loan outstanding on an annual basis, and will reduce as the LATC repays the loan.

- 5.5 The Business Plan assumes that the Council will transfer its land at Barton Road and the Vineyards to the LATC at a market value. To support, this, an external valuer will be engaged. The land will transfer to the LATC, which will then appoint and manage contractors to build and then sell the units on the open market. The first call on the cash proceeds will be for the LATC to pay the Council for the value of the land transferred. The Council will therefore agree to defer realising the capital receipts from these two land disposals until such time as the LATC has generated sufficient monies to fund the payment.
- 5.6 There will be initial set up costs, which will be incurred between the Council meeting on the 7<sup>th</sup> January 2016 and the date when the LATC commences trading (envisaged to be 1<sup>st</sup> April 2016). It is proposed that the Council funds the work, from the Commercial Invest to Save Reserve and underspends being generated in the current year's budget. The Council and the LATC will be free to purchase services from each other; at costs which are both fair and competitive.
- 5.7 There will be taxation issues for the LATC and the Council to consider. The VAT implications to both parties will need to be carefully considered on a service by service basis, and it may be that in order to ensure the Council does not face a VAT penalty, that some flexibility exists as to how some income and expenditure is incurred by either party. VAT advice is being taken. The LATC will be liable for corporation tax on its profits.
- 5.8 There is no requirement for an EIA at this stage.

## 6.0 APPENDICES

- 6.1 Appendix 1 – Overall Business Plan (OBP)  
 Appendix 2 – Business Plan (Commercial Services)  
 Appendix 3 – Business Plan (Property Development)  
 Appendix 4 – Shareholder Agreement  
 Appendix 5 – Articles of Association  
 Appendix 6 - Risk Management Plan  
 Appendix 7 – Loan Agreement Draft Heads of Terms

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
Council 16 July 2015 Agenda Item No. 13	Room 103 The Grange Ely	John Hill Chief Executive (01353) 616271 E-mail: john.hill@eastcamb.gov.uk
LATC Establishment Committee 27 November 2015 Agenda Item No. 6 and 7 17 December 2015 Agenda Item No. 6		