

Minutes of the meeting of the Local Authority Trading Company  
Establishment Committee held in the Council Chamber,  
The Grange, Nutholt Lane, Ely on Thursday,  
22<sup>nd</sup> October 2015 at 10.30am

**PRESENT**

Councillor Charles Roberts (Chairman)  
Councillor Lis Every  
Councillor Bill Hunt

**IN ATTENDANCE**

Emma Grima – Director, Commercial & Corporate Services  
John Hill – Chief Executive  
Adrian Scaites-Stokes – Democratic Services Officer  
Andy Radford – Chief Financial Officer  
Phil Rose – Strategic Land Advisor  
Public – 1 Member

8. **PUBLIC QUESTION TIME**

Mr P Bates made the following statements and asked the following questions:

- The Terms of Reference for the Trading Company seemed to suggest that a service had already been identified for transfer from the Council. Which service is likely to transfer into the LATC?
- Will the LATC be competing with local businesses for operating services? Or what provision will be made for this not to happen?
- What opportunities would there be for local businesses to partner the LATC? If the LATC was thinking about creating more local opportunities then the Council's procurement process had to be acknowledged as being difficult for local businesses.
- Could it be assumed that the LATC would go through the normal procurement process when obtaining services from the Council?
- The Council or the LATC presumably would have opportunities to apply for grant funding from the Government.
- Opportunities for partnerships could be greater for local businesses. Would moving the focus onto properties give an opportunity to pick up some of the Action on Energy work for private landlords and help deal with fuel poverty?

The Chief Executive replied on behalf of the Chairman and stated that one of the objectives of the LATC was the possibility of transferring commercial services from the Council. No services had yet been identified for transfer from the Council and there were no business plans for any services within the LATC. However, the Council would be considering the transfer of services providing it met certain criteria. This would include whether the service was commercially suitable, profitable, could provide some increase in income, would maintain the

teckal exemption and would allow some cash flow. A proposal was being made for a teckal exemption, which would allow the transfer of services to the LATC from the Council without further procurement.

The LATC could possibly compete with the private sector but initially would be looking to develop Council owned land and property. As a direct developer the LATC could deliver 40% extra value, which would be in the public interest and could be invested in essential services. The Council's intention would be to procure services much more locally. Currently selling land to developers tended to result in regional or national builders being used as their partners. The Council wanted to engage local builders, although in some instances the Council would compete, so greater flexibility through the LATC would allow procurement from local companies.

The Chief Financial Officer commented that the teckal exemption meant that the Council and LATC could trade freely between themselves and there would be no requirement to go out to tender for services.

The Chief Executive was aware of the difficulties of local companies working within the procurement process. He agreed to provide an answer to the questions in writing.

9. **APOLOGIES AND SUBSTITUTIONS**

Apologies were received from Councillors Lorna Dupré and James Palmer. There were no substitutions.

10. **DECLARATIONS OF INTEREST**

No declarations of interest were received.

11. **MINUTES**

The Chief Executive advised the Committee of an outstanding item from the last meeting, relating to providing guidance given to Members of the Board in relation to the Asset Development Committee. Once the decision on agenda item 6 had been made, specific advice would be taken and Members would be informed of the outcome.

It was resolved:

That the minutes of the meeting held on 24<sup>TH</sup> September 2015 be confirmed as a correct record and be signed by the Chairman of the meeting.

12. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman welcomed Phil Rose, the Strategic Land Advisor, to his first meeting, who would provide advice on property developments and how they related to the Local Authority Trading Company.

13. **LATC GOVERNANCE ARRANGEMENTS**

The Committee considered a report, reference Q96, previously circulated, which set out the governance arrangements for the Local Authority Trading Company (LATC).

The Chief Executive advised the Committee of a minor change in the recommendations under paragraph 2.1 (iii) – it should read “4.8 and 4.9” and not as stated in the report.

The current timetable required a full report to go to Council at its January meeting. To progress work toward this, guidance was needed from the Committee. Four issues needed consideration: the preferred option for the type of LATC– options set out in Appendix 1; whether to have a single company or a group structure; whether to have a teckal exemption; and, the structure of the Board and the framework for the number of agreements between the LATC and the Council.

Type of Trading Company

The best approach would be a single company limited by shares. The Council would want to own the company and gain profit through the dividends subject to taxation.

Teckal Exemption

This would give the ability to provide services to each other without going through the procurement process. To qualify for the exemption, at least 80% of the services the LATC used would have to be provided by the Council. The property element would not impact on this figure. If the Council were to provide services outside of the district’s boundaries, then it would have to make sure that the business was transferred appropriately. This matter would continue to be assessed to ensure the Council maintained compliance with the teckal requirements.

Structure of the Board

The recommended composition was set out in paragraph 4.4 of the report. The positions on the Board would be based on the office held but this was not set in stone. The LATC shareholder committee would review the set up, which would include the critical post of an independent Chairman.

Set Up of the Company

Compared with a group structure, a single company would provide clarity of governance and on taxation, plus it would be more transparent. Simplicity would be the key in setting up the company, for accountability purposes for the public and the shareholder committee, and to allow better monitoring of emerging issues. A group structure would be more difficult.

Governance Arrangements

A basic diagram was shown in Appendix 2. The structure needed some clarifying but showed a number of mechanisms as to how Council could bring the company to account. The key related documents were the Shareholder Agreement and the Articles of Association.

The Shareholder Agreement would explain what the company could not do without consulting and without the consent of the Council. This could include the allocation of further shares, how the company could access third party loans and partaking of joint ventures with others. It would also detail the reporting arrangements between the LATC and the Council. It would also include very specific, but not onerous, performance indicators, so no unnecessary bureaucracy was imposed on the company. The company would have operational freedom balanced against the need to protect the Council. This would be fully explained in the paper going to full Council.

The Articles of Association was a fairly straight forward document. The proposal to make the Asset Development Committee the shareholder committee had already been considered, and agreed, by that Committee, subject to Council approval. However, a lot more work was still needed and the Council had secured support from its advisors to assist in this. Relevant business plans would be seen by this Committee.

Councillor Lis Every had also looked at a variety of different companies and agreed that the preferred option was a single company, as recommended, as this gave flexibility, scope and creditability to manage Council assets.

Councillor Charles Roberts asked about the limitations with the teckal exemption with regard the 80% limit. Would this be based on geographical locations?

The Chief Financial Officer stated that there was not a clear straightforward answer. It would depend on who was doing the contracting and the turnover generated. If the LATC kept close to the 80% limit and did a majority of work for the Council then the teckal compliance would not be lost.

The Chief Executive informed the Committee that advice was being taken about the property element, which was not expected to affect the teckal exemption, which would relate to the provision of services. The Council did not want to fetter the LATC but the Council had to make sure that there were no constraints on getting business outside the district.

In response to Councillor Bill Hunt's question about working for the American Air Force, the Chief Executive reiterated the LATC's objectives were to trade and expand the Council's commercial arm. The Open Spaces team were getting a good reputation and could possibly bid for work outside the district, but the bid had to be competitive. If significant business was secured outside the district the Council would have to ensure that the teckal exemption was still valid.

Councillor Charles Roberts noted that the governance arrangements diagram had not included business plans and wondered where they would sit. Those plans would be useful to reflect the freedom of the LATC.

The Chief Executive stated that business plans would be included and that the structure diagram was expected to undergo changes as the process moved forward.

It was resolved to RECOMMEND TO COUNCIL;

- (i) That the establishment of the LATC limited by shares with a teckal exemption;
- (ii) That the composition of the LATC Board as detailed in paragraph 4.4;
- (iii) That the Chief Executive be instructed to prepare a Shareholders' Agreement and Articles of Association based on the principles detailed in paragraphs 4.8 and 4.9.

14. **RECRUITMENT OF THE CHAIRMAN OF THE LATC (PROPOSED ARRANGMENTS)**

The Committee considered a report, reference Q97, previously circulated, which set out the job profile and proposed recruitment process for the Independent Chairman of the Local Authority Trading Company (LATC).

The Director, Commercial and Corporate Services advised the Committee that paragraph 4.2 should include the words "per annum". The report set out the proposed recruitment process for an independent chairman of the LATC. It was essential that they were independent to ensure the aims of the company were met. Recruitment to this post would be via an advertising campaign with applications processed during November, including interviews held by this Committee.

Councillor Lis Every thought the Chairman's line of accountability and responsibility had to be clear.

The Chief Executive stated that everybody would have a role in ensuring the process was as useful as possible, and all Members were encouraged to promote the recruitment of the post. The Council had to get the right person, who could challenge the balance of the Board and had business acumen.

It was resolved;

- (i) That the draft job profile as outlined in Appendix 1 be approved; and
- (ii) That the recruitment process as set out in paragraph 4.4 be approved.

15. **BUDGET MONITORING REPORT**

The Committee considered a report, reference Q98, previously circulated, which provided information on the committed expenditure to date and how this was being funded.

It was resolved;

That this report be noted.

16. **FORWARD AGENDA PLAN**

The Committee considered its Forward Agenda Plan.

The Forward Agenda Plan was noted.

The meeting closed at 11.20am.

DRAFT