

North Yorkshire County Council

Shareholder Committee

Minutes of the remote meeting held on Tuesday, 25th May, 2021 commencing at 1.00 pm.

County Councillor Carl Les in the Chair. plus County Councillors Gareth Dadd and Don Mackenzie.

In attendance: County Councillors Derek Bastiman, Margaret Atkinson, Mike Jordan and Annabel Wilkinson.

Officers present: Richard Flinton (Chief Executive Officer); Gary Fielding (Corporate Director for Strategic Resources); Barry Khan (Assistant Chief Executive), Melanie Carr (Principal Democratic Services & Scrutiny Officer).

Apologies: None

Copies of all documents considered are in the Minute Book

51 Minutes of the meeting held on 29 September 2020

Having considered the draft Minutes of the formal Shareholder Committee meeting held on 29 September 2020, which had been printed and circulated, members of the Shareholder Committee recommended to the Chief Executive that he confirm them as a correct record.

Resolved –

The Chief Executive considered the views of the Shareholder Committee members provided at the meeting and decided to use his emergency powers to implement their recommendation.

52 Declarations of interest

In regards to Agenda Item 5, County Councillor Gareth Dadd as a Director of the Veritau, declared a non-pecuniary interest in matters relating to the Company. In addition, County Councillors Don Mackenzie and Carl Les as Directors of NYNet, both declared a non-pecuniary interest in matters relating to the Company.

53 Exclusion of the public from the meeting during consideration of Appendix C to Agenda item 5, on the grounds that it will involve the likely disclosure of exempt information as defined in the paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to information)(Variation) Order 2006:-

Resolved –

That the Committee would not need to go into private session to discuss in detail Appendix C to Agenda item 5, as there were no substantive questions or debate required in relation to the content of the report.

54 Public Questions & Statements

There were no questions or statements from the public.

55 Brierley Group Annual Report 2020/21 & Brierley Group Business Plans

Considered –

The report of the Assistant Director for Strategic Resources, providing an annual financial and performance report for 2020/21 for the companies that make up the Brierley Group, together with their individual Business Plans.

Michael Leah, Assistant Director for Strategic Resources introduced the report, providing an overview of performance and highlighting the achievements and challenges for the individual companies over the last year. He drew members' attention specifically to the profit before interest as detailed in the report, which was less than expected for the year, but noted that profit was not the sole objective of the Brierley Group and that benefit had been derived in other forms such as interest on the loans made to the individual companies.

The negative impact of Covid on the Group was acknowledged. In particular, the drop in revenue for NYES due to limited trade with schools throughout the lockdowns, and the impact on Align Property Partners as a Teckal company who did a majority of its trading with public bodies and schools.

However, it was noted the Group overall had shown a reassuring level of resilience throughout the pandemic and had held up well. Whilst 25% of the Groups employees had been on furlough in 2020/21, the quality of service provided had not been affected.

Attention was drawn to a number of highlights from the past year:

- In regard to Brierley Homes, it was noted that its pilot site at Thorpe Willoughby had been completed resulting in a 20% gross profit from the site, and that a further three pipeline sites were now underway, with a fourth having just received planning permission.
- In regard to Yorwaste, it was noted that the company had continued to manage and operate the household recycling centres through the various states of lockdown, whilst maintaining appropriate health and safety measures.
- Finally in regard to NYnet, it was noted the company had continued to deliver the 'local for fibre network' despite a number of potential issues through the year providing a platform for the company to grow from.
- It was confirmed that the governance arrangements of the Group had been reviewed, and had been found to be appropriate in respect to how it compared with both other councils' commercial operations and best practice guidance.
- The launch of NY Highways was scheduled for 1st June 2021

In response to some adverse press about preferential rates being given to the companies by the County Council, it was confirmed that this was not the case. All loans were on a commercial rate providing a greater return than leaving the cash in the bank. Michael Leah confirmed the rates were different for each company based on the level of risk and the financial health of the company.

In response to a question from County Councillor Mike Jorden, Michael Leah confirmed that Brierley Homes was the main contributor to the 639k reported loss over the last year, in that it was currently in construction phase meaning expenditure was greater than revenue, which would change once the properties build were sold for profit. For other Companies,

the Group was being as tax efficient as possible by offsetting at a group level any losses against the more profitable companies.

It was suggested that the profit and loss for the 2020/21 year needed to be considered in the context of the build-up of profit from previous years, as part of the rhythm of commercial activity.

It was also suggested the shareholder value from what the companies were delivering needed taking into consideration - the income stream from the commercial rates on the loans, the tonnage going into Allerton Park, which provided a more advantageous rate for the County Council etc. It was noted that shareholder value in 2020/21 was approximately £5.2m.

In the context of the pandemic, Richard Flinton, Chief Executive Officer confirmed the diversity of the Group had proved helpful, with the range of its trading activities placing the Council in a better position than many other Councils.

County Councillor Don Mackenzie confirmed he remained optimistic regardless of the difficult year. He noted the expertise being gathered in the companies and referenced NYNet, which helped the Council manage the Superfast North Yorkshire programme and the local full fibre network's gigabit system.

In regard to Brierley Homes, County Councillor Derek Bastiman drew attention to the significant rise in housing prices in North Yorkshire this year which would deliver a higher rate of profit in the longer term. It was suggested that Brierley Homes should be seen as a disruptor to the market by encouraging other building companies to move more quickly in developing land.

In regard to the general principles of governance, County Councillor Gareth Dadd noted how other Authorities had not been as open and transparent in their commercial dealings as perhaps they should have, and was therefore pleased to note the positive findings from the review of the Brierley Group's governance arrangements.

Michael Leah, Assistant Director for Strategic Resources went on to provide a summary of the Group's Business Plans noting they were contingent on how the lockdown measures continued to ease and the speed at which the country's economy recovered. He drew attention to the current market conditions and the indicators in the report giving some level of confidence. He also noted the substantial shift from physical sales to online sales, something the Brierley Group would need to learn from, and the additional funds being made available by the Government.

Across the 3-year plan period, he noted the focus on Health & Safety Protection and environmental performance. He confirmed the Group was aligning to the Shareholder's ambition of becoming carbon neutral by 2030, which would require some significant changes for some of the companies. He also drew attention to the last table in Appendix B showing the numbers that underpinned the consolidated position for the Group.

Finally, as it was a new company, Michael Leah provided a more detailed overview of the Business Plan for NY Highways, which included a focus on transition in the first year, to be used as a platform for quality improvements going forward.

Members also noted the changing market place arising from an increase in the number of academies going forward and a rise in the number of teaching academies providing free school improvement services to some schools. It was confirmed that work was underway to develop an academy offer, and to expand NYES service delivery to beyond North Yorkshire.

Members of the Shareholder Committee thanked officers for the update. They noted the

Brierley Group annual report in Appendix A and the Brierley Group Business Plan summary 2021-2023 in Appendix B, and agreed to recommend to the Chief Executive Officer that using his delegated powers, he accept and approve the Business Plans in Confidential Appendix C.

The Chief Executive Officer took all relevant information into account, including the views of the Shareholder Committee members and

Resolved: To accept and approve the Business Plans in Confidential Appendix C.

56 Align Property Partners - Articles of Association

Considered – A report of the Assistant Chief Executive (Legal and Democratic Services) seeking shareholder approval for the revised Articles of Association of Align Property Partners Limited.

The report looked at the governance arrangements for Align Property Partners Limited and it was noted the proposed amendments to the Articles of Association were to ensure the document was up to date and appropriate for a Teckal company. Barry Khan - Assistant Chief Executive (Legal and Democratic Services), provided a brief description of a Teckal compliant company i.e. for procurement purposes only, used as an internal department of the Council removing the need for full procurement procedures.

It was noted that a Teckal Company was a separate company, wholly owned by the Council but treated as a separate company for tax purposes and the law that had to trade by the same rules as any other company.

Members questioned how to be assured of best value for money, and it was noted that avoiding competition to achieve administrative convenience was not the purpose. Gary Fielding, Corporate Director for Strategic Resources confirmed the Authority's Teckal companies were expected to win contracts outside of the organisation in competition with other externally owned companies, and their successes or otherwise were a good indication of their ability to compete in the open market. Good benchmarking data was provided by constantly testing the market. In addition, there was internal challenge around value for money from open discussion around cutting costs.

Having considered the report provided, members of the Shareholder Committee agreed to recommend to the Chief Executive Officer that using his emergency delegated powers he approve the Articles of Association for Align Property Partners Limited and sign off the Written Resolution on behalf of the shareholder.

Having considered the views of the Shareholder Committee and the papers provided, the Chief Executive

Resolved to:

- (i) Approve the Articles of Association for Align Property Partners Limited; and
- (ii) Sign off the Written Resolution on behalf of the shareholder.

57 NYnet Ltd - Articles of Association

Considered – A report of the Assistant Chief Executive (Legal and Democratic Services) seeking shareholder approval for the revised Articles of Association of NYnet Limited.

Again, the report looked at the governance arrangements for NYnet Limited and it was noted the proposed amendments to the Articles of Association were to ensure the document was up to date and appropriate for a Teckal compliant company i.e. used as an internal department of the Council removing the need for full procurement procedures.

Having considered the report provided, members of the Shareholder Committee agreed to recommend to the Chief Executive Officer that using his emergency delegated powers he approve the Articles of Association for NYnet Limited and sign off the Written Resolution on behalf of the shareholder.

Having considered the views of the Shareholder Committee and the papers provided, the Chief Executive

Resolved to:

- (i) Approve the Articles of Association for NYnet Limited; and
- (ii) Sign off the Written Resolution on behalf of the shareholder.

58 Work Programme

Members considered and endorsed the work programme for the Committee for the remainder of 2020/21.

59 Other business which the Chair agrees should be considered as a because of special circumstances

The meeting concluded at 2.01 pm