

Meeting of the Companies Committee

Wednesday, 21 October 2020,
2.00 pm



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Meeting held virtually, via Skype

Committee Members present

Councillor Bob Adams
Councillor Ashley Baxter
Councillor John Dawson (Vice-Chairman)
Councillor Graham Jeal (Chairman)
Councillor Philip Knowles
Councillor Ian Stokes
Councillor Mark Whittington

Members as Company Directors

Councillor Barry Dobson (LeisureSK Ltd)

Other Members

Councillor Kelham Cooke (The Leader of the Council)
Councillor Annie Mason (Cabinet Member for Communities)
Councillor Dr Peter Moseley (Cabinet Member for Commercial and Operations)
Councillor Rosemary Trollope-Bellew (Cabinet Member for Culture and Visitor Economy)
Councillor Phil Dilks

Officers

Karen Bradford (Chief Executive)
Gary Smith (Strategic Director Commercial & Operations)
Richard Wyles (Interim Director of Finance)
Shahin Ismail (Director of Law and Governance (Monitoring Officer))
Karen Whitfield (Head of Leisure)
Jo Toomey (Head of Governance)
Debbie Roberts (Corporate Project Officer)
Paul Clarke (Finance Lead, Housing Delivery)
Shelley Thirkell (Democratic Officer)

15. Register of attendance, membership and apologies for absence

A register of attendance was taken. An apology for absence was received from Councillor Susan Sandall.

16. Disclosure of interests

No interests were disclosed.

17. Minutes of the meeting held on 22 September 2020

Following a vote, the minutes of the meeting held on 22 September 2020, were agreed as a correct record, subject to the following amendments:

- Amendment of typographical errors
- The clarification of names of postholders in the attendance list of the minutes
- Item 6, paragraph 12 reference; “Then further director appointments, along with external non-executive directors, would be made at a future meeting”. Be changed to “Then further director appointments, along with external non-executive directors, could be made at a future meeting”
- Any reference to LeisureSK be changed to LeisureSK Ltd

A member of the Committee sought clarification around the use of officer titles for appointments and noted that only named individuals could be appointed as company Directors, rather than post titles. The Head of Law and Governance confirmed that was indeed the case. Officer titles were referred to as only whoever was appointed to those posts, would be appointed to wholly owned council companies, as directors. Should an officer vacate their post, the Directorship would then pass to the next postholder, subject to Council approval.

Following discussion by the Committee actions were agreed.

ACTIONS

- a. **All wholly owned council companies, that had been incorporated were to be referred to as such, for example LeisureSK Ltd**
- b. **That officers noted in attendance should be referred to not only by title, but by name also.**

18. Updates from the previous meeting

The Committee received an update on actions agreed at the meeting held on 22 September 2020.

It was requested that should there be no updates on actions, that it be noted as nothing further to report. The Head of Governance advised that the Action

document included within the agenda, had been updated since publication, which had been circulated to Members. It was agreed by the Committee that the updated document should be appended to the minutes, for openness and transparency.

The Chairman noted that Item 39 would be more appropriately be assigned to the Directors of EnvironmentSK Ltd, rather than to the Communications Team.

ACTIONS:

- a. To append the updated Actions of the meeting held on 22 September 2020 document, to the minutes of the meeting.**
- b. To update the assignment of the action regarding EnvironmentSK Ltd from the Communication Team to the Directors of EnvironmentSK Ltd**

19. LeisureSK - company structure and business plan

The Committee received a report on LeisureSK Ltd, its Company Structure and Business Plan. A decision had been made by Cabinet, which was endorsed by the Committee, to transfer the Council's leisure service to LeisureSK Ltd on the expiry of the current leisure contract on 2 January 2021.

Since the decision had been endorsed by the Committee work had been undertaken to establish the optimal company structure, five-year business plan, draft Articles of Association and consideration of the appointment of Company Directors. Consultation had continued with the existing leisure centre staff on their transfer to LeisureSK Ltd.

The Company had been set up as a not for profit Teckal company, limited by guarantee. This would allow the Council to directly award the leisure services contract, without going through a competitive tender process. It also meant that the Company had to procure goods and services through EU Procurement Law. Following advice LeisureSK Ltd was established as a non-profit distributing organisation (NPPO), which allowed the Company to qualify for VAT exemptions in specific areas.

Key legal arrangements were needed to be put in place to define the Council's relationship with LeisureSK Ltd, these included: A Leisure Management Contract, Leases and Alternative Arrangements, Resourcing Agreement, Articles of Association, Members' Agreement and a 5-year Business Plan.

In presenting the report and proposing the recommendations, the Cabinet Member for Growth put forward two additional Directors: the person holding the post of the Cabinet Member for Finance and Resources and the person holding the post of the Cabinet Member for Culture and Visitor Economy.

Members discussed the content of the report and the following points were raised and addressed as follows:

- Would there be a Service Level Agreement between LeisureSK Ltd and South Kesteven District Council

Some level of professional support may be sought from the Council, there would be a formal Service Level Agreement in place and appropriate re-charges would be made.

- The five-year Business Plan, which would be revised once business cases had been finalised, would the Committee have sight of the revised document

The Head of Leisure advised that a detailed Annual Business Plan would be presented to the Committee, which would include how the Company would engage with its customers.

- That there be involvement of leisure facility users with the Board of Directors

Members were advised that a non-executive director would be appointed to the company, it was anticipated that they would have a wealth of relevant experience to bring to the Company. User panels would also be formed, so that the Council could maintain oversight of feedback when holding the company's performance to account.

- Further consideration be given to the level of remuneration for the appointment of a non-executive director

It was explained that the advised figure was within market average and that any individual appointed would take on considerable responsibility which carried a level of risk.

- Concerns regarding risk over Covid-19 and any further lockdowns and the affect it may have on the viability of the company

All scenarios had been considered and if there were any significant changes, they would be reported to the Committee.

- Clarification as to why a charitable organisation was not the choice of structure for the company

Members were advised that options on the formation of the Company were considered at a meeting of Cabinet. It was agreed that the formation of a Teckal Company would prove the most beneficial to the Council. The Director of Law and Governance agreed to provide written detail on the chosen company structure. The Head of Leisure noted that as the current contract

was shortly due to end and options were limited in the leisure market, the chosen option was the most prudent. The options appraisal considered by cabinet provided detail, it was agreed that this would be re-circulated to Members.

ACTIONS:

- a. **The Director of Law and Governance provide Members with technical document on the chosen company structure**
- b. **That the options appraisal considered by Cabinet, be re-circulated to Members.**
- c. **Whether the withdrawal from the EU would have any effect on the company in relation to provisions for Teckal companies**

The Director of Law and Governance advised that as many EU Laws had been embedded into UK Law, that would not have an effect on the Company.

- Request for clarification regarding the appropriate Member forum to scrutinise the work of LeisureSK Ltd

The Chairman agreed that it would be useful to have an agreed forum and said that he would raise it for discussion at a meeting of Scrutiny Committee Chairmen. The outcome of this would then be reported to a future meeting of the Committee.

ACTIONS:

- d. **The Chairman to discuss, at the next meeting of Scrutiny Chairs, the appropriate forum for members to scrutinise the work of LeisureSK Ltd and report back to the next meeting of the Committee**
- Clarity on Member appointments to LeisureSK Ltd, if they were due to their positions as Portfolio Holders

It was confirmed that Member appointments to the Directorship of the Company were due to their role as Portfolio Holder. Should they no longer serve as Portfolio Holder, the Directorship would then pass to their successor. At the request of Members this requirement was to be added to the recommendations of the report, for Member approval.

Following a vote, Members agreed to discuss Appendices 5 and 7 to the report in exempt session. The appendices were exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended) because they contain information relating to the financial or business affairs of an individual organisation.

Councillor Ashley Baxter requested that his objection to the exclusion of press and public be noted.

Members discussed the financial information, which was presented in the restricted papers. Once discussion on the exempt items had concluded, the meeting returned to public session.

Following a vote by exception the Committee agreed the following recommendations.

Councillor Ashley Baxter requested that his vote against approval, be noted.

DECISIONS:

- 1. The Committee noted the further work undertaken to establish the optimal company structure for LeisureSK Ltd which would ensure that the Company is financially efficient and would benefit from savings in relation to VAT and business rates.**
- 2. The Committee endorsed the draft Articles of Association, Members Agreement and Resourcing Agreement detailed within the report as the main documents which will govern the Council's relationship with LeisureSK Ltd.**
- 3. The Committee endorsed the five-year high-level business plan provided within the report for the purposes of allowing the Council to make appropriate budget allocations to support the ongoing operation of LeisureSK Ltd.**
- 4. Agreed to receive a detailed business plan from the Directors of LeisureSK Ltd at the earliest opportunity once the company had been fully established and the Directors had been appointed.**
- 5. Endorsed the commencement of a recruitment process to identify a suitably qualified and skilled Non-Executive Director to sit on the Board of Directors for LeisureSK Ltd.**
- 6. Recommended to Council that the Leader of the Council, Cabinet Member for Finance and Resources, Cabinet Member for Culture and Visitor Economy and the Director of Growth and Culture be appointed as Directors of LeisureSK Ltd.**
- 7. Noted that LeisureSK Ltd may require working capital in advance of the Company being operational in order to ensure a smooth transition to the new arrangements.**
- 8. That a Member may only hold their position as Director of LeisureSK Ltd, whilst they maintain their role as Portfolio Holder.**

20. Update on Housing Delivery Partnership

A report was presented to the Committee on the latest position of the proposed housing joint venture and the recommended next steps to stimulate housing delivery in the District. At a meeting of the Committee on 7 January 2020 it was requested that an update on progress be presented in April 2020. Due to the cancellation of that meeting and the Covid-19 Pandemic this had been delayed.

The report laid out strategic context in relation to the South Kesteven District Council Corporate Plan, Covid-19 and housing delivery. In addition to this, details were provided on consultations and overview and scrutiny processes, alongside feedback that had been received.

A number of options were set out in the report and it was recommended that the Council work proactively with the housing market, to pursue other approaches. It would provide the opportunity to build positive relationships within the housing market, stimulating housing delivery, whilst avoiding the need to commit to significant long-term investments. There would be an opportunity to review that position once there was a greater degree of certainty around the economic recovery from Covid-19. It was proposed that it be considered as part of the annual review of the Corporate Plan.

Members considered the content and following discussion; the following points were raised:

- Clarification on how the Council would continue to build properties, should a joint housing venture not be pursued. It was also requested that an update on houses that have been built be provided to Members.

Members were advised that properties that had been built by the Council were via the Housing Revenue Account (HRA) and would not be affected by the venture not being pursued. The Chairman advised that the relevant Portfolio Holder would be able to update Members on the current number of houses delivered through the HRA.

ACTION:

- a. The Cabinet Member for Housing and Planning to update Members on the current number of houses delivered through the HRA.**
- Concerns were raised regarding funding from Government District, would the proposed decision affect the funding

The Deputy Leader advised that there would be no effect on funding the Council would receive from central Government.

- Why a joint venture was not considered the preferred method to build houses within the District

The Leader and Deputy Leader of the Council explained that the Council had put in place Gravitas Housing Ltd, which could be used to build within the private sector. Additionally, the Council did not have access to land nor the funds in the current climate, to pursue what had previously been proposed. The Council could achieve house building without the need to form the joint venture.

- Were there any budgetary implications for not carrying on with the proposal

The Interim Head of Finance advised that there would be no effect to the budget, as it was not in relation to HRA social housing. The proposals were for private sector housing, the two ambitions had no relation.

Following the discussion, the Committee agreed to note the recommendations presented within the report.

DECISIONS:

- 1. That the Committee noted the contents of this report and that a housing partnership is not pursued at this time, but that the development of a partnership is considered in the future as part of the Council's annual review process**
- 2. That the Committee notes that the Council intends to build on the positive relationships developed with partners in the housing market to stimulate ongoing delivery in South Kesteven**

21. Work Programme

Members noted the work programme and queried when it was anticipated that the detailed LeisureSK Ltd Business Plan would be considered by the Committee.

The Head of Leisure advised that the Business Plan was currently being prepared and it was hoped to be drafted by Mid November 2020. The Chairman requested that the Committee consider its contents at the February meeting of the Committee, which could be brought forward if necessary.

ACTION:

- a. That the LeisureSK Ltd Business Plan be added to the Work Programme.**

22. Close of meeting

The meeting closed at 4.10pm.