

# **Merton Council**

## **Local Authority Property Company (LAPC) Sub-Committee Agenda**

### **Membership**

#### **Councillors:**

Stephen Alambritis  
Mark Allison  
Martin Whelton

**Date:** Tuesday 12 December 2017

**Time:** 7.15 pm

**Venue:** Committee Rooms C,D,E, 1st floor, Merton Civic Centre

This is a public meeting and attendance by the public is encouraged and welcomed.  
For more information about the agenda please contact  
[democratic.services@merton.gov.uk](mailto:democratic.services@merton.gov.uk) or telephone [020 8545 3616](tel:02085453616).

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# Local Authority Property Company (LAPC) Sub-Committee Agenda

## 12 December 2017

- |   |  |        |
|---|--|--------|
| 1 | Apologies for Absence                        |        |
| 2 | Declarations of Pecuniary Interest           |        |
| 3 | Minutes of the Previous Meeting              | 1 - 6  |
| 4 | Merantun Development Company Progress Report | 7 - 10 |

### **Note on declarations of interest**

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. If members consider they should not participate because of a non-pecuniary interest which may give rise to a perception of bias, they should declare this, withdraw and not participate in consideration of the item. For further advice please speak with the Assistant Director of Corporate Governance.

# Agenda Item 3

LOCAL AUTHORITY PROPERTY COMPANY (LAPC) SUB-COMMITTEE  
16 OCTOBER 2017

(8.15 pm - 8.30 pm)

PRESENT Councillors Stephen Alambritis, Mark Allison and Martin Whelton

Ged Curran (Chief Executive), Caroline Holland (Director of Corporate Services), Chris Lee (Director of Environment and Regeneration), Paul Evans (Assistant Director of Corporate Governance), Fabiola Hickson (Manager business improvement law), Paul McGarry (FutureMerton Manager) and James McGinlay (Assistant Director for Sustainable Communities)

## 1 ELECTION OF CHAIR (Agenda Item 1)

It was moved by Councillor Mark Allison and duly seconded by Councillor Martin Whelton that Councillor Stephen Alambritis be elected Chair of the Local Authority Property Company Sub-Committee.

RESOLVED:

That Councillor Stephen Alambritis, Leader of the Council be elected Chair of the Local Authority Property Company Sub-Committee for the remainder of the 2017/18 municipal year.

## 2 APOLOGIES FOR ABSENCE (Agenda Item 2)

No apologies for absence received.

## 3 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 3)

No declarations of pecuniary interest were made.

## 4 HOUSING COMPANY SHAREHOLDER SUB-COMMITTEE REPORT (Agenda Item 4)

The Director of Environment and Regeneration presented the report, which set out a proposed infrastructure to enable the newly formed property company to operate effectively.

The Sub-Committee noted an update on the progress to date with the establishment of the Company. Geotechnical surveys were being carried out on potential development sites and the Business Plan was being refined, including more detailed costings. Work was also being carried out on design briefs and a review of current planning policies.

The Director of Corporate Services advised that officers were working to minimise the impact on the General Fund and maximise the financial benefits for the Council.

The Sub-Committee noted that approximately 160 councils throughout the country had either set up or were in the process of setting up property companies. This had provided officers with a variety of experiences from which to learn and adopt best practices.

The Cabinet Member for Finance welcomed the update and noted the complexities involved. The property company would provide a significant financial benefit to the Council. It was noted that the Private Rented Sector was predicted to grow due to a reduction in the number of people being able to afford to buy their own property. However, there were issues with poor quality homes in the sector and this provided the Council an opportunity to drive up standards for its residents.

RESOLVED:

1. That the Terms of Reference and Sub-Committee Membership be noted;
2. That the update on Merantun Development Ltd's progress be noted;
3. That the nomination of the Director of Environment and Regeneration as the Shareholder Representative be approved; and authority be delegated to the Director to:
  - (i) act as the Shareholders representative in Company meetings for the purposes of passing ordinary and special resolutions and
  - (ii) to make decisions on company matters, as the Shareholder Representative, unless the matter is specifically reserved to the Sub-Committee.
4. The draft Shareholders Agreement and the Reserved Matters contained in Schedule 1 (Appendix 1) and the draft Amended Articles of Association (Appendix 2) be noted; and authority be delegated to the Shareholder Representative in consultation with the Chair of the Sub-Committee to:
  - (i) agree these documents (save where there is a material change); and
  - (ii) enter into the Shareholders Agreement and approve adoption of the Amended Articles of Association.
5. That on the Shareholder Agreement being entered into, the Reserved Matters contained in Schedule 1 of the agreement be reserved to the Sub-Committee; and authority be delegated to the Shareholder Representative with regards decisions relating to Reserved Matters in consultation with the Chair as and when necessary save for the following:
  - (i) Altering in any respect the Articles or the rights attaching to any of the shares in MERANTUN DEVELOPMENT LTD (except as provided in clause 16.3 of the Draft Shareholder Agreement).
  - (ii) Permitting the registration of any person as a member of MERANTUN DEVELOPMENT LTD other than the Council.

- (iii) Increasing the amount of MERANTUN DEVELOPMENT LTD's issued share capital, granting any option or other interest (in the form of convertible securities or in any other form) over or in its share capital, redeeming or purchasing any of its own shares or effecting any other reorganisation of its share capital.
- (iv) Incurring expenditure or entering into any arrangement, contract or transaction in excess of:
  - (a) Other than in relation to any land acquisition, £2,000,000 (2 million pounds);
  - (b) In relation to any land acquisition, £2,000,000 (2 million pounds).
- (v) Issuing any loan capital in MERANTUN DEVELOPMENT LTD or entering into any commitment with any person with respect to the issue of any loan capital.
- (vi) Applying for the listing or trading of any shares or debt securities on any stock exchange or market.
- (vii) Passing any resolution for its winding up or presenting any petition for its administration (unless it has become insolvent).
- (viii) Altering the name of MERANTUN DEVELOPMENT LTD or its registered office.
- (ix) Adopting or amending the Business Plan in respect of each Financial Year.
- (x) Changing the nature of MERANTUN DEVELOPMENT LTD's Business or commencing any new business by MERANTUN DEVELOPMENT LTD which is not ancillary or incidental to the Business.
- (xi) Forming any Subsidiary or acquiring shares in any other company or participating in any partnership or joint venture (incorporated or not).
- (xii) Amalgamating or merging with any other company or business undertaking.

- (xiii) Creating or granting any Encumbrance over the whole or any part of the Business, undertaking or assets of MERANTUN DEVELOPMENT LTD or over any shares in MERANTUN DEVELOPMENT LTD or agreeing to do so other than liens arising in the ordinary course of business or any charge arising by the operation or purported operation of title retention clauses and in the ordinary course of business.
  - (xiv) Factoring or assigning any of the book debts of MERANTUN DEVELOPMENT LTD.
  - (xv) Changing the auditors of MERANTUN DEVELOPMENT LTD or its Financial Year end.
  - (xvi) Establishing or amending any profit-sharing, share option, bonus or other incentive scheme of any nature for Directors or employees.
  - (xvii) Establishing or amending any pension scheme or granting any pension rights to any Director, officer, employee, former Director, officer or employee, or any member of any such person's family.
  - (xviii) Appointing or dismissing any Director or Chairman.
  - (xix) Making any agreement with any revenue or tax authorities or making any claim, disclaimer, election or consent for tax purposes in relation to MERANTUN DEVELOPMENT LTD or its business.
  - (xx) Purchasing any housing or commercial unit(s) or land which is situated outside of the Council's administrative area.
6. The Shareholder Representative be required to report any decisions made under the delegated authority contained in recommendation 5 above to the next Sub-Committee meeting after the decision was taken;
  7. The equity subscription of £160,560.00 to the Company in relation to the working capital as described in paragraph 4.1 of the report be approved; and authority be delegated to the Shareholder Representative in consultation with the Chief Financial Officer (the S151 officer) to approve the terms of the equity subscription and to enter into an Equity Subscription Agreement in relation to this sum;
  8. To grant delegated authority to the Shareholder Representative in consultation with the S151 Officer and the Chair to negotiate the terms of Finance Agreements and/or Equity Subscription Agreements subsequently required after the Equity Subscription Agreement (referred to in recommendation 7 above) and to enter into such agreements;

9. The appointment of James McGinlay as a Director of Merantun Development Ltd be approved;
10. The dates for information sessions on the financial documentation and the forward plan agenda items be agreed.

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## **Committee: Local Authority Company Shareholder Sub-Committee**

**Date: 12<sup>th</sup> December 2017**

Wards: All

**Subject: Merantun Development Company Progress Report**

Lead officer: Chris Lee, Director of Environment and Regeneration

Lead member: Councillor Stephen Alambritis, Leader of the Council  
Councillor Martin Whelton, Cabinet Member of Regeneration, Environment and Housing  
Councillor Mark Allison, Deputy Leader and Cabinet Member for Finance

Contact officer: James McGinlay, Assistant Director for Sustainable Communities

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### **Recommendations:**

- A. To note the appointment of two further Directors of Merantun Development Limited
  - B. To note the current position of the agreement of the Company's Shareholder Agreement and Equity Subscription Agreement
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. The purpose of this report is to update the Shareholder Sub-Committee on progress on the appointment of directors to the Merantun Development Limited (the Company), approval of the amended articles of association, the equity subscription agreement and the shareholders agreement.

## **2 DETAILS**

- 2.1. On the 16 October 2017 the Local Authority Company Shareholder Sub-Committee resolved that:
  - The Director of Environment and Regeneration be appointed as the Shareholder Representative;
  - That the Director of Environment and Regeneration, in consultation with the chair of the Sub-Committee, be delegated authority to agree and approve the entering into the Shareholders Agreement and amended Articles of Association; and
  - The Shareholder Representative, in consultation with the chief financial officer (the section 151 officer), to approve the terms of and enter into Finance Agreements, the equity subscription agreement for £160,560 and any further equity subscription agreements required.
- 2.2. The Company will be holding its first board meeting on Wednesday 06 December 2017. It is anticipated that at this board meeting the following resolutions and considerations will be made:

- 1) The appointment of Ian McKinnon and Roger Kershaw as directors of the Company;
  - 2) Approval and adoption of the amendments to the articles of association;
  - 3) Consideration and approval to enter into the shareholders agreement; and
  - 4) Consideration and approval to enter into the equity subscription agreement.
- 2.3. We are currently awaiting the approval of the Director of Environment and Regeneration, in consultation with the chair of the Sub-Committee, with regards to the shareholders agreement, however it is anticipated that the agreement will be entered into before the shareholders sub-committee meeting on 12 December 2017.
- 2.4. We are currently awaiting approval from the Shareholder Representative, in consultation with the chief financial officer (the section 151 officer), with regards to the Equity Subscription Agreement, that was agreed by the Shareholder Sub-committee on 16 October 2017, however approval is anticipated to be entered into before the shareholders sub-committee meeting 12 December 2017.
- 2.5. The amendments to the articles of association have been approved by the shareholder representative in consultation with chair of the sub-committee. To amend the articles of association a special resolution will be required and the special resolution along with the amended articles will need to be lodged with Companies House.
- 2.6. As the Shareholder's Agreement has not been entered into as of the date of this report, the Shareholders Agreement is not in existence and the reserved matters are not in effect until the agreement has been executed. The decision regarding appointment of directors at the date of this report will be governed by the articles of the association currently lodged at Companies House. Notwithstanding that the shareholders agreement at this time has not been executed it is anticipated that the shareholders agreement will be executed by the date of the sub-committee meeting and the reserved matters will come into effect and approval will be required by the sub-committee. In the event that the shareholder agreement is not executed by the date of the sub-committee, as a matter of good practice and courtesy the company seeks approval from the Shareholder Sub-Committee with regard to the appointment of Ian McKinnon and Roger Kershaw.
- 2.7. It is recommended by the Company that Ian McKinnon be appointed as a director of the company due to his extensive experience as a board director in other companies, including CHAS 2013 Limited, which will benefit the company.
- 2.8. It is recommended by the Company that Roger Kershaw be appointed as director of the company due to his extensive experience and knowledge in finance, which will be of benefit to the company.

**3 ALTERNATIVE OPTIONS**

3.1. None for the purposes of this report.

**4 CONSULTATION UNDERTAKEN OR PROPOSED**

4.1. None for the purposes of this report.

**5 TIMETABLE**

5.1. An update business plan detailing the funding requirements will be brought to the Local Authority Company Shareholder Sub-Committee meeting on the 20<sup>th</sup> March 2018 outlining the funding requirements over the 2018/19 and 2019/20 financial years.

**6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

6.1. None for the purposes of this report.

**7 LEGAL AND STATUTORY IMPLICATIONS**

7.1 The legal implications are contained in the main body of this report.

**8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1. None for the purposes of this report.

**9 CRIME AND DISORDER IMPLICATIONS**

9.1. None for the purposes of this report.

**10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. None for the purposes of this report.

**11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

11.1. None for the purposes of this report.

**12 BACKGROUND PAPERS**

12.1. None for the purposes of this report.

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