

Title: Milverton Homes Limited Governance Audit Report  
 Lead Officer: Lisa Barker / Andrew Jones  
 Portfolio Holder: Councillor Wightman  
 Wards of the District directly affected: None

<b>Approvals required</b>	<b>Date</b>	<b>Name</b>
<b>Portfolio Holder</b>	19.06.2023	Cllr Paul Wightman
<b>Finance</b>	19.05.2023	Victoria Bamber
<b>Legal Services</b>	19.05.2023	Kathryn Tebbey
<b>Chief Executive</b>	13.06.2023	Chris Elliott
<b>Head of Service(s)</b>	Authors	Lisa Barker/Andrew Jones
<b>Section 151 Officer</b>	13.06.2023	Andrew Rollins
<b>Monitoring Officer</b>	Author	Andrew Jones
<b>Head of Governance</b>	02.06.2023	Graham Leach
<b>Leadership Co-ordination Group</b>	19.06.2023	
<b>Final decision by this Committee or rec to another Cttee / Council?</b>	Yes	
<b>Contrary to Policy / Budget framework?</b>	No	
<b>Does this report contain exempt info/Confidential? If so, which paragraph(s)?</b>	No	
<b>Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?</b>	No/Yes, Forward Plan Ref 1,366 – scheduled for 05.07.2023	
<b>Accessibility Checked?</b>	Yes	

---

## Summary

Milverton Homes Limited (MHL) is a company wholly owned by Warwick District Council, incorporated on 8<sup>th</sup> January 2021.

After a period of operation, an internal audit review was commissioned to provide assurance that the Council has appropriate governance arrangements in respect of MHL that protect the Council as an entity, as well as its officers and Councillors as individuals.

This report sets out the findings of that audit and offers recommendations to increase assurance in this area.

## Recommendation(s)

That Cabinet:

- (1) Notes the findings of the internal audit review commissioned by the Deputy Chief Executive and the response to the findings at 1.1.7.
- (2) Notes the statement of alignment to the Council's Business Strategy.
- (3) Approves the establishment of a Shareholder Representative Board and removes the role of Shareholder Representative from the Deputy Chief Executive to be replaced by the Council's Monitoring Officer with effect from 1<sup>st</sup> August 2023.
- (4) Approves the Terms of Reference for the Shareholder Representative Board at the Appendix 1.
- (5) Notes the performance targets set for MHL.
- (6) Approves the Council's Exit Strategy from MHL.

---

## 1 Reasons for the Recommendations

### 1.1 Recommendation (1) – MHL Governance Overview

- 1.1.1 MHL has well established governance arrangements in place to provide the Council with control in respect of the operation of the company and its financial arrangements. These arrangements are set out in the Articles of Association and Shareholders Agreement (confidential item) which Members can view through the Committee Management System.
- 1.1.2 As with all companies, MHL is required to provide audited accounts on an annual basis which are submitted to Companies House. An auditor/accountancy firm that is independent to the Council's auditor has been appointed by MHL. The auditors were asked to consider any governance gaps when undertaking their work. They did not make any recommendations.
- 1.1.3 Monthly Board meetings are held for MHL with papers circulated to the Board in advance and meetings being minuted. Warwickshire Legal Services provide MHL with the Company Secretarial Role. Each month the Board consider standard agenda items which include: Declaration of interest, Finance update, horizon scanning, sites of interest and the Joint Venture (JV).
- 1.1.4 New Members may not be aware that in August 2021, MHL entered into a Joint Venture (Crewe Lane Kenilworth JV LLP) arrangement with Vistry Linden

Limited for the purchase of land at Crewe Lane, Kenilworth to facilitate the construction of 620 homes. The purchase was enabled by a £60m loan from this Council to the JV.

- 1.1.5 MHL has established a number of documents that are deemed by the Board to be a requirement for good organisational management. These include:
- A comprehensive Risk Register which is reviewed by the Board on a quarterly basis.
  - Financial Regulations
  - Annual Business Plan

1.1.6 Housing companies and Joint Venture arrangements are not unusual in the local government sector and if risks are properly managed through effective managerial and Political oversight then these arrangements can be effective contributors to the Council's strategic objectives. Regrettably, there have been a number of high-profile incidences where Council companies' governance arrangements have broken down with dire consequences for the Council and local taxpayers. Therefore, twelve months following the establishment of the JV, the Deputy Chief Executive considered it prudent to commission a governance review of MHL and the way the company's actions were being monitored by the Council. The review was undertaken by the Council's Audit & Risk Manager.

1.1.7 The findings from the review and the latest position are detailed in the table below.

<b>Review Finding</b>	<b>Commentary</b>
A. Clarity is required over the Council's risk appetite in relation to the Company's operations and the financial investment it is willing to make in the Company.	Cabinet and the Council consider an Annual Business Plan for the Company where investment proposals are raised, and decisions made. Risk is mitigated by the Council having control rights and finances are secured against assets. It is acknowledged that the Business Plan has thus far not kept to the required timeline, but this will not be the case in future years.
B. A clear statement is required explaining how the Company is aligned with the Council's purpose and objectives and, how, through the Company, these are fulfilled.	See recommendation 2 and paragraph 1.2 below. This will be reviewed following any change in Business Strategy as a result of the change in administration of the Council.
C. A shareholder board should be established to provide strategic direction, including advising the shareholder representative in their role representing the Council at meetings of the	See recommendations 3 and 4, and 1.3 and 1.4 respectively below.

<p>company. Clearly, terms of reference for the shareholder board will need formulating. This is a particularly important issue. A shareholder board will provide necessary oversight from a shareholder's perspective providing a mechanism for councillors to have a crucial role in holding the company to account. The shareholder board's role is to ensure that the objectives and policies that the Council, as the shareholder, has established for the company are being adhered to. It will need to liaise with the Council's Audit and Standards Committee and report and make recommendations to Cabinet.</p>	
<p>D. The Council should set clear and measurable performance targets by which to monitor the Company, in particular to monitor achievement of objectives. The Joint Venture has an external project monitor but monitoring of Milverton Homes overall is weak, partly due to limited staff resource in the Accountancy team.</p>	<p>See recommendation 5 and 1.5 below.</p>
<p>E. Enhanced monitoring of the operations and general arrangements is required by the Audit and Standards Committee, especially to identify and address key risks that could impact the Council in respect of ownership of a company.</p>	<p>The Chair of the Audit and Standards Committee will be part of the Shareholder representative board. Overview &amp; Scrutiny Committee will be able to call in the Annual Business Plan and any MHL related Cabinet reports for consideration. Audit &amp; Standards Committee will receive an annual report on the Governance arrangements that are in place to support Milverton Homes.</p>
<p>F. In relation to the above, Members should receive training to enable them to undertake effective scrutiny.</p>	<p>A package of training for the new Council has been compiled by the Monitoring Officer in consultation with the Group Leaders. The Monitoring Officer will ensure that the Council's arms-length companies are covered in an appropriate training session.</p>

<p>G. Currently, financial monitoring is somewhat haphazard, mainly due to pressures on staffing resources in Accountancy. As a consequence there is not consistent and regular monitoring of the performance of the company. This needs to be addressed.</p>	<p>A Service Level Agreement between WDC and MHL has now been established. Officers are still working on quarterly financial reporting arrangements and by the time of the Cabinet meeting these arrangements will have been concluded.</p>
<p>H. The Council's Section 151 Officer should be more actively engaged with the financial operations of the Company, perhaps meeting regularly with the appropriate company Director and/or receiving reports on the Company's financial position.</p>	<p>It is proposed that the Section 151 is appointed to the Shareholder Representative Board. The Deputy Chief Executive &amp; Monitoring Officer confirmed that the s151 has taken an active role in the oversight of the company. He has only agreed the release of working capital and loan finance following detailed investigation.</p>
<p>I. It is imperative that, as soon as possible, the Council prepares an Exit Strategy in preparation for any decision being taken to dissolve the Company.</p>	<p>See recommendation 6 and 1.6 below.</p>
<p>J. The Council should exert greater pressure on the company when and if the Company is deemed to be slow or reticent in producing relevant documentation such as was the case with the production of the Company's Business Plan.</p>	<p>The Council and MHL have now agreed a Service Level Agreement and named accountants have been allocated to roles for each of the respective parties. It will be the responsibility of the S151 Officer to ensure that appropriate time is allocated so that the Business Plan can be completed in accordance with the Shareholder's Agreement.</p>
<p>K. Service level agreements need to be in place and signed in order to avoid strained relationships arising where services are not provided adequately, or payment is not received from the Company. It is imperative that there is a written agreement or memorandum of understanding outlining which services are to be provided and how the Council will recover costs. (It is</p>	<p>A Service Level Agreement is now in place.</p>

understood that this has now been addressed.)	
L. The Company's decision-making process needs to be formalised and documented. (The auditor was advised that there is a process and that this is followed consistently and effectively. Nevertheless, this process needs formally documenting.)	The process for decision-making is now documented.
M. All internal communications of a significant nature between senior Council employees and the Directors of the Company should be formally documented i.e. made in writing or confirmed in writing with such communications being available for inspection.	The Deputy Chief Executive & Monitoring Officer, current S151 Officer and supporting accountants routinely retain all e-mail communication between the Council and the company and verbal decisions are followed-up with a confirmatory e-mail.
N. Loan agreements between the Council and the Company are not documented and signed. An agreement needs to be in place before the purchase at the end of the year of the first three units from the JV.	The three show-homes at Crewe Lane have now been purchased by MHL via a WDC loan. All necessary documentation is in place the transaction being led by the Council's solicitor. No transactions have taken place either with MHL or the JV where necessary contractual documentation is not in place.
O. Succession planning and dissemination of knowledge across the senior management team is required to ensure that expertise is maintained and is not vested in just one senior officer.	The Shareholder Representative Board will consider this matter at its second meeting.
P. Officer awareness training sessions should be developed and undertaken in order to improve understanding and reduce suspicion or concerns that staff may have in relation to the setting up and operation of the Company. This has become even more urgent since Stratford District Council raised	The Head of Housing has used a number of staff forums to communicate the activities of the company and its plans for the future. This communication will continue as the company's activities gather pace.

its concerns about the arrangements.	
<p>Q. Although initially considered and rejected, renewed consideration should be given to having a Member on the Company's board or at least for, say, the Chair of Audit and Standards Committee to attend the Company's board meetings.</p>	<p>This has been reconsidered and rejected although with the proposed establishment of the Shareholder Representative Board, this is something that Members, who will now have a greater oversight, will want to review taking into account legal advice from the Council's solicitor. Legal Services advise against having a Member on the Board. Members cannot put aside their obligations to the Council rather than the Company. When both align, all appears well but this does not address the fundamental point of conflict. Further, such a Member then is in a difficult position in terms of participation in the formal business of the Council. Frequently, they will have to declare a DPI and not just when considering and voting on the budget etc. A Member who is asked to step out of the budget vote will feel disenfranchised. Members could attend Board at intervals subject to acceptance of confidentiality of commercially sensitive info. What they mustn't do, however, is to become shadow directors.</p>

## 1.2 Recommendation (2) – statement of alignment to the Council's Business Strategy

- 1.2.1 The Council's Business Strategy 2020-2023 states that the Council's vision is 'to make Warwick District a great place to live, work and visit, and carbon neutral by 2030'. Within the Fit For The Future strands is the outcome to ensure that 'Housing needs for all are met', and to 'Maximise income earning opportunities'.
- 1.2.2 MHL contributes to this vision as set out in the report presented to Cabinet on 10<sup>th</sup> December 2020. The report states that 'establishing a LHC (*Local Housing Company*) would assist Warwick District Council to take a commercial approach to the delivery of new homes and offer a range of products to assist in the delivery of local housing needs. Furthermore, it can offer an alternative to traditional private rented options by offering a good quality product through a trusted organisation.

The LHC model has the aim of making significant contributions to the Council's income in the face of funding shortfalls, and by doing so, put services on a more sustainable footing to support local people as well as raising money to invest in

our priority outcomes’.

- 1.2.3 The Shareholder Agreement sets out the following as Objectives of the Company:
- (a) To be profitable and generate short- and long-term financial returns for WDC as shareholder;
  - (b) To deliver much needed housing within the district and outside of the district, where appropriate;
  - (c) To strive to develop homes that are carbon neutral;
  - (d) To endeavor to provide excellent quality market rented homes provided by a trusted landlord.
- 1.2.4 As noted above, at paragraph 1.1.4 ,MHL has formed a JV with Vistry to which the Council has provided a loan to finance the purchase of land and to develop housing. This is forecast to deliver loan profit to the Council of £9.1m and development profit to MHL of £6.5m. Loan profit is profiled to come into the Council in regular tranches and can be evidenced to be delivering in accordance with the profile.
- 1.2.5 Through the involvement with MHL, half of the residential properties being built at the JV site at Crewe Lane are zero- carbon to SAP standards. This is great news for the environment and good news for residents of these new homes.

### **1.3 Recommendation (3) – Establishment of a Shareholder Representative Board**

- 1.3.1 On 25<sup>th</sup> July 2022 Council appointed the Deputy Chief Executive and Monitoring Officer to take the Shareholder Representative role, removing this from the Head of Finance.
- 1.3.2 The audit report has suggested the need for a Shareholder Representative Board thereby negating the need for a single Shareholder Representative. Indeed, the audit report advises against vesting experience in one senior officer. Nevertheless, there is a proven need for a person who can take the lead on progressing work on a day-to-day basis and it is proposed that this role passes to the S151 Officer (Head of Finance) for financial matters and the Monitoring Officer for governance matters with both seeking ratification of decisions from the named Shareholder Board Councillors.
- 1.3.3 It is proposed that the Board has the following structure as set out in the Terms of Reference.

#### Councillors

Leader

Deputy Leader

Portfolio Holder for Housing

Portfolio Holder for Resources

Chairman of Audit & Standards

Leader of Lib Dem, Conservative and WRA Groups

#### Advising officers

Head of Finance

Legal Services representative

Monitoring Officer (who will act as Chair)



#### Officers to Attend

Council appointed Executive Directors of Milverton Homes Limited.

Principal Accountant (Appointed to Milverton Homes)

Principal Accountant (Housing)

### **1.4 Recommendation (4) – Terms of Reference for the Shareholder Representative Board**

- 1.4.1 The Terms of Reference of the Board will be to review performance of MHL and the JV against agreed objectives and the SLA.
- 1.4.2 It will also receive the proposed business plan for comment at least two months before it is to be presented to Cabinet, along with an annual review of the governance arrangements completed by the Monitoring Officer.
- 1.4.3 The views of the Board will be presented to the Cabinet as part of the business plan and the governance review will be separately reported to the Audit & Standards Committee.
- 1.4.4 Meetings will take place on a quarterly basis.
- 1.4.5 The Terms of Reference will be reviewed annually by Cabinet alongside the Business Plan for MHL.
- 1.4.6 The proposed Terms of Reference are at Appendix 1.

### **1.5 Recommendation (5) - Performance Targets set for Milverton Homes Limited**

- 1.5.1 Some performance targets are already contained within the Shareholder Agreement, and these are:
  - 6.1 The Company shall prepare a Business Plan in respect of each financial year that shall include an overview of the planned activity for that financial year and an explanation of how that planned activity furthers the Company's Objectives, which shall be submitted to WDC no earlier than four months and no later than two months before the end of each financial year.
  - 6.2 The Annual Budget for each financial year shall form part of the Business Plan. The Annual Budget shall be reviewed by the Board quarterly.
  - 6.4 (a) the audited accounts of the Company and any subsidiaries for each financial year as soon as practicable and, at the latest, by four months after the end of that financial year.
  - 6.4 (b) quarterly performance reports, cash flow statements and cash flow forecasts for the company.
- 1.5.2 There are additional targets set for the company which are reviewable by the Shareholder Representative Board. These are planned to be delivered on a quarterly basis to the Shareholder Representative Board:
  - Board Cover Report and comments on the Finance information and appendices for Shareholder
  - Performance Report - Profit & Loss - Income & Expenditure Statement
  - Balance Sheet
  - Cash Flow Statement
  - Cash Flow Forecast –MHL Business Plan updated to show a revised forecast year end position from the Board
  - Risk Register
  - New business proposals and updates

## **1.6 Recommendation (6) – Exit Strategy**

- 1.6.1 Legal advice is that prior to any decision to dissolve the company, a full report is commissioned/prepared at that time looking at the financial and legal implications in the round, the risks and options. Only then can a fully informed decision be made on dissolution and the steps required. For example, it might reveal that there is a sweet point for dissolution at some defined point or that winding down before winding up may be appropriate. Much will depend on the circumstances at the time. Paragraphs 1.6.2 & 1.6.3 then become matters that might form some of the steps considered.
- 1.6.2 Should any decision be made to dissolve the company, there is a clear option for the Council to liaise with the Board of MHL to determine the future of any property in the ownership of MHL. The options would be for the properties:
- To be purchased from MHL by the Council for use as affordable housing, a move that would likely attract investment funding from Homes England thereby reducing the costs directly falling to the Housing Revenue Account.
  - Sold on the open market.
  - Sold to current residents of that property.
- 1.6.3 Any monies that would be available following liquidation/dissolution would be payable to the shareholder by way of dividend. Alternatively, the Council could undertake an appraisal of each property to determine the most appropriate form of action. There are existing processes in place that could be deployed to support this activity. The Housing team, working collaboratively with the Finance team, would lead on the activity.

## **2 Alternative Options**

- 2.1 The recommendations of Internal Audit could not be acted upon however, this would not assist the Council to strengthen its governance arrangements and achieve enhanced levels of assurance.

## **3 Legal Implications**

- 3.1 The responses to the audit review recommendations address any outstanding legal issues.

## **4 Financial**

- 4.1 No direct impact from this report.

## **5 Business Strategy**

- 5.1 Health, Homes, Communities - The proposals support residents living in safe and secure homes and environments.
- 5.2 Green, Clean, Safe – The homes that MHL are providing are energy efficient buildings that enables energy costs to be lowered.
- 5.3 Infrastructure, Enterprise, Employment – There are no direct impacts for this aspect of the strategy.
- 5.4 Effective Staff – Managers across the organisation have been briefed on the operation of Milverton Homes and the benefits to the Council of having this company.
- 5.5 Maintain or Improve Services – The inward income facilitated by MHL enables investment in service provision and thereby supports local communities.
- 5.6 Firm Financial Footing over the Longer Term – MHL provides opportunities to

deliver a safe, cost-effective long-term solution to support the ambitions of the Council's Business Strategy.

## **6 Environmental/Climate Change Implications**

6.1 None as a direct consequence of this report.

## **7 Analysis of the effects on Equality**

7.1 None as a direct consequence of this report.

## **8 Data Protection**

8.1 There are no specific data protection implications associated with the proposals in this report.

## **9 Health and Wellbeing**

9.1 None as a direct consequence of this report.

## **10 Risk Assessment**

10.1 The proposals within this report mitigate risks in relation to the governance arrangements between the Council and MHL. Therefore risks raised during the audit are reduced.

## **11 Consultation**

11.1 Consultation with the Audit & Risk Manger has taken place throughout the drafting of this report.

### **Background papers:**

Cabinet report 10<sup>th</sup> December 2020 – Item 5 – Formation of a Local Housing Company.

### **Supporting documents:**

Proposed Terms of Reference