London Borough of Enfield

Finance & Performance Scrutiny Panel

15 December 2021

Subject: Focus on Council Companies
Cabinet Member: Cllr Mary Maguire
Executive Director: Fay Hammond – Executive Director, Resources

Key Decision: N/A

Purpose of Report and Proposals

1. The purpose of the report is to brief the Finance and Performance Scrutiny Panel on the Council companies and joint venture organisations focussing on providing assurance that they continue to contribute effectively to the achievement of the Council's corporate objectives. Nationally council companies have come under the spotlight where they have impacted a Council's financial resilience, this report explores this issue and how any lessons learnt could be applied to Enfield companies.

Proposal(s)

2. Recommended that the Panel note the progress made to date in operation of the Council's companies, and the identified risks in relation to the next phase of their development and operation.

Reason for Proposal(s)

3. Reporting of the Companies' performance, governance and risks is essential to enable full and effective consideration of the Council's corporate risk, particularly in relation to financial risk.

Background

4. During the financial year ending March 2021, the Council operated three active subsidiary companies. These are:

    a. Housing Gateway ltd (HGL) – HGL is wholly owned by the Council and provides private rented accommodation, accommodation for rough sleepers (drawing in £6.7m capital grant) and an ethical letting agency to assist the Council to minimise the impact of homelessness, to reduce barriers that residents face to accessing the private rented sector as part of its poverty and inequality strategy and to support the Council's TA reduction strategy. The HGL Board consists of a Councillor

Chair, up to 3 Council-appointed officer directors, and two external independent directors.

b. Lee Valley Heat Network Operating Co ltd (trading as Energetik) – Energetik is wholly owned and operates heat networks in the borough of Enfield, assisting the Council in decarbonising housing in the borough. The Energetik Board consists of a Council-nominated Councillor director, two externally appointed executive directors and two externally appointed non-executive directors.

c. Montagu 406 Regeneration LLP – a partnership with Henry Boot Developments ltd (50% owned each), to regenerate the Montagu industrial estate. As a partnership, Montagu does not have an appointed Board in the manner of the limited companies. However, the Members Agreement sets out that the company will be steered by company meetings of four appointees, two from each partner. The Council has a nominated officer and Councillor whom attend company meetings for the Council.

5. The Council has dissolved or is in the process of dissolving four previously operated companies – Independence and Wellbeing Enfield ltd, Red Lion Homes ltd, Enfield Innovations ltd and Enfotec ltd. The Council has also disposed of its interest in Enfield Norse ltd.

6. Nationally council companies have come under the spotlight where they have impacted a Council's financial resilience, this report explores this issue and how any lessons learnt could be applied to Enfield companies. Recently it was agreed to create a Finance Director post which specifically focusses on commercial, companies, borrowing and capital programme, which will significantly strengthen capacity to focus on the financial resilience of the Council's arrangements.

Main Considerations for the Council

7. This report covers the following areas:
    - Governance and oversight of the companies
    - Strategic Risks arising for the Council through the use of company models and structures
    - Performance of the companies to date

<u>Governance</u>

8. The companies are separate legal entities from the Council, and as such the Council cannot necessarily directly control them as it would its own operations. Indeed, part of the benefit of the company structure is that some risks can be contained within a company entity, or that benefits can arise from the presence of a separate legal entity. However, as the Council is the owner of the companies then by necessity some of the risks of the companies have high impact on the Council, particularly in relation to funding the companies. The Council therefore provides strategic direction via several means, including approval of company business plans.

9. This means that clarity of roles and responsibilities in regard to the company is essential to effective governance. The Council addresses this via shareholder agreements (or Members Agreement in the case of Montagu), which are discussed further in paragraph 29. The shareholder agreement sets out the Council's roles as shareholder, lender, and client in relation to companies, the key responsibilities of each role, and whom carries out the role.

10. In setting out the governance framework the Council must find the right balance between delegation of responsibilities and oversight and control. There are examples of where this has not been achieved effectively in Public Interest reports issued on subsidiary companies in other Local Authorities (LAs), and these reports can act as a type of benchmarking for the Council to ensure it has enacted effective controls and is not exposed to similar risks as occurred in comparable situations. This report will consider some of the themes of those Public Interest Reports and how the Council has enacted effective governance to avoid those situations, or where improvements may be required.

Complex company structures and regular review of use

11. Some other LAs have utilised holding companies to oversee multiple corporate operations. This has been criticised by the External Auditors of those Councils, as overly hierarchical structures and indirect control can lead to ineffective oversight and lack of transparency.

12. Enfield does not operate a holding company structure to oversee its companies. An officer function holds responsibility for direct monitoring of company risks, and the Council has shareholder agreements in place with its companies to set out its expectations in regard to monitoring.

13. Enfield has previously operated a holding company structure specifically in relation to Energetik, but following the introduction of the officer shareholder function, this was dissolved, and the Council now owns Energetik directly.

14. A lack of review in the effectiveness and use of company models was also identified. The Council has operated a number of companies at different times, and these were reviewed in 2018-19. As a result, the Council decided to withdraw from some partnerships or joint ventures, and to implement different models for some of its wholly owned companies. This was due to a variety of reasons, including changes in Council priorities and financial emphasis, and an associated desire not to have complex arrangements in place for some aspects of business, which were not assessed to be delivering proportionate benefits. To date, the Council has withdrawn from two joint ventures, including dissolving one, and dissolved one of its wholly owned companies.

15. Governance arrangements should be subject to regular review to ensure alignment with the Council requirements. Therefore, the Council will be undertaking a regular review of reserved matters and the Company articles of association and reporting the outcome within the annual report to Cabinet on the companies.

16. The current governance arrangements for companies include two annual reports to Cabinet – the business plan, and the annual accounts and performance. There are additional more frequent reports at officer level. This current arrangement will be reviewed in the coming financial year.

Lending and repayment monitoring

17. Other LAs have been criticised for lending with insufficient assurance to their subsidiary companies, lending frequently and above initially agreed amounts, along with a subsequent lack of repayment monitoring, leading to circumstances in which LAs were unaware of whether loans were being repaid or not. For example, in one circumstance, an authority approved a loan to a subsidiary on the basis of a business case; the subsidiary returned three weeks later requesting another £9m loans, which was granted.

18. Enfield does have substantial loans to its subsidiary companies, aggregating to over £130m at 31st March 2021, with over £100m of potential further investment contained within the 10-year Capital Programme. The risk of this exposure should not be taken lightly. In a worst-case scenario, the Council could have to write off substantial amounts of capital investment in the event of company failure. This risk essentially materialises if a company fails while holding insufficient saleable assets to meet the level of debt it owes the Council; therefore, the key risk factor for security of loans is what assets the companies hold.

19. However, the Council has substantive controls in place to mitigate this risk. Unlike other LAs in Public Interest reports, the Council does not pay loans to companies up front. It approves a total facility, against which companies place draw down requests when they require funding, in which the company detail what the request is for. The Treasury team monitors repayments against lending agreement schedules, and the company is required to submit loan repayment evidence when submitting a draw down request, which is copied to the Treasury team for reconciliation to the Council's equivalent records prior to approving the draw down request.

20. This process serves to limit the Council's loan exposure only to that which is necessary at any one time. For example, while the Council has approved facilities for Energetik exceeding £80m for various projects, at 31st March 2021, the company had an actual outstanding loan value of £12.5m. Therefore, the Council's practical exposure is significantly lower than the available facilities.

21. Further, the Council commissions independent review of investment business cases prior to approving any capital investment into a company. The independent reports are presented with the papers for approval to the appropriate executive function.

22. In addition, the majority of the Council's investment exposure to date has been into businesses utilising the funds to purchase fixed assets. This improves security of loans as it provides a saleable asset to recoup the loan value in the event of company failure. For example, HGL at 31st March 2021,

had outstanding loan values of £121m. However, it's property value in the same accounts was valued at £130m, meaning that there are sufficient saleable assets to cover the Council's invested loan capital in full should the worst-case scenario arise. Similarly, the Council's investment into Montagu will be via the purchase of land, a saleable asset that may reasonably be expected to appreciate in value over time.

23. By contrast, Energetik's loan value is currently greater than the fixed asset value, as at March 2021 the outstanding loan value was £13m and the fixed asset value was £5.07m, indicating a lack of saleable assets to repay the full outstanding loan should the business fail at present. This is reported in the Council's accounts. The accounting basis recognises the company being an innovative start-up company, which by its very nature requires intensive up-front capital investment and is therefore deemed to be of a higher risk. Energetik's networks and projects have also been funded in part by £17m total grants from central government, and a £1.2m grant from Greater London Authority.

24. In addition to the loans, the Council has equity investment in HGL of £5m and Energetik of £17.75m (funded by grants).

25. The Treasury Strategy transparently reports the lending to companies; however, stress testing of this lending needs to be considered. In future this is will be considered at the mid-year position when the Company year-end audited accounts will be available and included in the Council mid-year Treasury Update. This is appropriate as the risk sits with the Council as the lender distinct from the Company reports.

Skills, knowledge and responsibilities

26. A final theme of public interest reports was the presence of clear officer roles to monitor companies, and the level of industry expertise on company Boards, these both having been considered insufficient in multiple cases.

27. For Enfield's companies, the HGL Board is populated by independent non-executive directors and executive officers with extensive experience in the private rented sector and financial management in a company context. The Council has much experience internally in this regard and therefore purchasing in additional experience would be unnecessary. Similarly, Enfield's representative at Member meetings of Montagu is an officer with extensive property and regeneration expertise, and suitable seniority within the organisation.

28. For Energetik, the Council does not have in-house expertise in the industry. The Council therefore appoints externally to the Energetik Board, and the current board has substantial experience and expertise in the heat network industry, which is essential to the success of the company. While there is a cost attached to this, the experience of other LA subsidiary companies will attest to the much more significant cost of having insufficient industry knowledge on the company Board.

29. The Council has a clear officer role and function with designated responsibility for shareholder matters. The shareholder agreements with the companies also allocate clear responsibilities in relation to the Council's roles as a lender to companies, and as a service client or strategic partner, and also designate a clear list of 'Reserved Matters', which are business decisions the company cannot take without the Council's approval as shareholder. This is generally over strategic or financing decisions which would impact the Council as shareholder or a lender; the vast majority of day-to-day and operational business is left to the company, with the Council monitoring results. There are standard monitoring processes in place to measure company performance on a quarterly basis, using targets and projections directly from the companies' business plans; the business plans are refreshed annually.

30. The executive function on company oversight is exercised ultimately by Cabinet, based on qualified officer advice, whom receive annual reports on company accounts and performance, as well as approving the annual refreshed business plans. Reports are also taken to scrutiny committees from time to time.

31. Reports have also identified the importance of member training, to ensure that executive Members have sufficient understanding and skill in the Council's governance arrangements and interpreting company performance. This will be considered following local elections in May.

Montagu partnership

32. The governance for Montagu cannot be entirely similar to that for wholly owned companies. As a partnership, the Council cannot make unilateral decisions. A number of agreements are in place with The Council's partner, Henry Boot, covering both the strategic operation of the company via a Members' Agreement, and specific aspects of the project (e.g. Development Agreement, Land Agreement, and so on). However, there remains scope to improve the operational aspects of decision making and day-to-day business between the partners. The Council has requested an internal audit of its governance on Montagu, which is due to report shortly. Any recommendations arising from this review will support the improvement to the governance outcomes and progress to implementing these.

Energetik and energy markets

33. Among the incidences of LA subsidiary company failure in public interest reports are some energy companies; Members will also be aware of the current issues in the main energy markets which have seen a number of private operators enter administration. This report will therefore outline briefly the differences between Energetik and the more open energy markets, and how this affects risk.

34. The LA subsidiaries and private sector companies facing failure operated in 'white label' energy, that is energy provided through the national grid. This is subject to extensive regulation affecting prices, high external risks (e.g. supply issues, OPEC decisions) and entails direct competition for customers.

35. Energetik operates heat networks, to which development projects agree to connect at the planning stage. Energetik does not compete directly for individual customers, rather Energetik's risks arise at the development stage. This generally results in easier planning and steady growth, although it is not without risk as will be outlined further in this report. The main benefit is that unlike other 'white label' LA subsidiary start-ups, Energetik does not directly compete with large established energy companies with much further reaching marketing ability.

36. Further, as a self-contained heat network, Energetik does not have the same exposure to destabilisation of the open market, as has been seen in recent weeks and months. While there be some indirect effects in time, the fact that Energetik does not buy or supply via the open market means it is substantially less affected by changes in that market. Energetik's energy is also prepaid, thereby reducing the likelihood of debt. There are provisions to ensure no loss of energy to its register of vulnerable customers.

37. Supply of white label energy was at one point considered for Energetik; however, it was considered a high-risk venture, and therefore the Council decided to wait and observe the other LA-owned subsidiaries before considering the possibility further. The Council's approach in this regard has proven prudent.

38. The trade-off of this circumstance is that customers purchasing properties on developments supplied by Energetik, cannot opt out of supply or choose another supplier. In recognition of this, Energetik operates a price-matching mechanism which matches against the lower end of the market.

<u>Strategic Risks</u>

39. While the enactment of substantial controls to avoid risks occurring elsewhere provides effective assurance, this does not mean that the companies are without risk to the Council. This section will consider the key strategic risks over the coming years.

Financial Resilience

40. The companies, as identified above do require a high level of strategic investment from the Council, which is funded in the vast majority through Council borrowing and on-lending to the companies. There are two strands of risk in this regard, the most obvious being the potential loss of funds invested in the companies, leaving the Council to write off its on lending, and potentially be forced to repay some of its borrowing from its own funds. The main controls in this regard are outlined above.

41. Perhaps the more significant strategic risk looking forward is the effect of the companies on the Council's overall borrowing levels, both in terms of absolute amount and opportunity cost. The Council has an ambitious capital programme, and therefore there is little room for manoeuvre in terms of individual capital investments. Return on capital employed is an important measure in considering the allocation of capital resources and it may be that other Council priorities may generate a higher return so the best use of capital

within limited capacity requires assessment. The Capital Board is now considering all projects/programmes against return criteria so will be in an improved position to understand, in financial terms, the best deployment of capital. To support this end, officers are in the process of commissioning strategic review of the future of companies, to explore their return and the possibility of other funding sources to reduce the effect of companies on the overall debt level.

42. Additionally, there is opportunity cost; that is to say, capital invested in the companies cannot be invested elsewhere. This a matter of comparative risk and return on investment. This is an area in which the Council could improve its strategic governance, and work will be ongoing to do so, improving the data available to the Council to consider comparative return on different potential projects.

43. It should be noted, however, that there will always be an element of difficulty in comparing potential capital spend for the Council. The presence of significant impact against the Council's Corporate Plan, which can be difficult to quantify will lead to an element of subjectivity being inherent in comparison. For example, the reduction of time spent in temporary accommodation by homeless families is clearly of benefit to those families, however it is difficult to quantify, and therefore an element of judgment will always be present in considering it and other projects with similar social effects.

44. There is no revenue impact (i.e. to Council Tax payers) of the company on lending. HGL loan rates cover the costs including administration, Energetik's blended rate includes a premium over the Council's rate, which acts as a source of income for the Council, while still providing good terms for Energetik. This is transparently reported in the Treasury reports which set out the interest paid by each entity.

Energetik – connections

45. Energetik has performed well over its life to date – this is discussed further below. However, its long-term success depends on continuing to scale up its customer levels until income outweighs costs.

46. To date it has exceeded its business plan assumptions, however, the next two years are critical in terms of connections if this trend is to be sustained. From 1st April 2022 to 31st March 2024, the business plan assumes the delivery of close to 2000 connections, well above the rate achieved to date. This was based reasonably on the information available to the company at the time, including information about the Council's Meridian water programme. Development schedules are subject to change, however, and as such close attention will need to be maintained on connection levels, and some additional scenario planning may be helpful in assessing the potential impacts of not achieving the level of connections in these two years specifically. To mitigate this risk the Interdependency Board will continue to monitor connections and Energetik will be required to submit quarterly monitoring on the connection pipeline to inform the funding profile.

47. As identified in the Full Council report on Energetik's expansion in June 2021, future expansion and growth of the company may continue to require capital to grow in future years, due to the nature of its business and the requirement to build infrastructure before income can be received from a network. As the June report noted, there is therefore a possible risk of creating a cycle whereby the Council continues investing to take advantage of opportunities, ahead of realising returns on existing investments. Energetik was approved on condition of conducting an independent Strategic Review, which will determine a forward strategy to manages the Council's financial risk, and make use of external investment opportunities to fund potential future growth of the network where available. Sound management and creation of a successful initial network will make the project more attractive to outside investment, potentially enabling the Council to continue expansion while stepping back as the company's primary funding body.

Energetik – skills and knowledge

48. While Energetik has significant knowledge, experience and skills on its current Board (as outlined above), this alone does not fully mitigate all the risks in this area; there remains a risk that the current knowledge base is not retained or replaced in the long run. To that end, the strategic review of Energetik will include aspects of specification on skill retention and succession planning, to ensure the Council has a clear strategy in place to maintain the skills necessary to continue the company's good performance to date.

Energetik – regulation

49. Forthcoming regulation on heat networks provides both potential additional costs but also opportunities for Energetik and therefore the Council. The government has consulted on both consumer protection regulation and on regulation which would encourage or require consumers to use heat networks. While the regulatory burden may increase on the company, requiring more resources away from direct energy provision, the regulations could increase the rate of connections and also provide a more stable industry context.

50. This would reduce the risks associated with connections in the long run, were it to come to fruition, as there would be a source of developments potentially required to connect or retrofitting of existing buildings to provide income. However, it should be borne in mind that this is extremely unlikely to be in place in time to affect the next couple of critical years for Energetik; and also there is the possibility that the existing buildings required to connect to a network may include public buildings.

51. The impact of regulation will be monitored via risk register and will be fully assessed to identify and quantify costs and benefits, when clear proposals are available.

Housing Gateway – forward direction

52. Housing Gateway has been successful to date in delivering its business aims. However, in recent years the company has seen relatively steady growth of its core business affected by the number of available properties that are viable to acquire. Some diversification has happened with the addition of property procurement for supported lettings for rehoused rough sleepers and an ethical letting agency, however, this carries different risk levels which are being closely monitored. For example, margins on the letting agency are reliant on fixed costs servicing the targeted number of properties in management. The level of property hand-backs and the adequacy of dilapidations provision is also critical.

53. A review of the company is therefore prudent. Any proposals would be presented to Cabinet through revision of the company's business plan.

54. HGL has expanded to include Enfield Lets, a property management unit currently in its first year of operation. This activity is reported as a distinct business division in in HGL management accounts so that performance can be kept under review. The performance of the unit is also being monitored separately to the business as a whole on a quarterly basis by the Council as shareholder.

Montagu - land costs

55. The cost of the regeneration at the Montagu industrial estate is split among the two partners according to type of cost; the Council's cost is the acquisition of land, while Henry Boot is responsible for development costs. This is codified within the Member's Agreement. The reasoning for the split is to ensure each partner is in direct control of the costs for which they are liable and is not required to contribute to costs they have no control over.

56. The key risk for the Council, therefore, is that land acquisitions are more expensive than planned. Much of the land may have to be acquired through compulsory purchase order (CPO), and as such the cost is harder to predict as elements such as lost revenue will become relevant.

57. The company business case included a contingency amount above the official valuation of the land, however, as per the above outlined reasons, this may not be sufficient, depending on the exact claims submitted under the CPO process. The development is, however, being conducted in phases, and the land acquired in accordance with this. If land costs are substantially higher than expected, over and above contingency amounts, in early phases, then there will be opportunity to review the plan as a whole and determine whether any extra investment is warranted, or whether to reduce the scope of the project to manage costs. This risk and decision are not delegated to the company but managed by the Council as a JV partner.

Montagu – timetable

58. The timetable of Montagu, and as such the benefit realisation, has slipped substantially from the original approved business plan. However, substantive progress in acquiring necessary land has been made in recent months, and the company will be requested to update the timetable in the business plan

when the land has been acquired. This can then be reconciled back to the Council's long-term income projections, and the effect of delays quantified and addressed through the medium-term planning process and approved by Cabinet in the first half of 2022.

Inflation

59. Inflation is a general risk for all companies in terms of costs, but particularly HGL; as it rents at the LHA rate, if the LHA rate does not increase at the rate of inflation this exacerbates cash flow risk. The company mitigates effects through a strict viability model for all purchases, which incorporates conservative assumptions on costs, as well as equally conservative assumptions in its general model on voids, repair costs and so on. However, inflation will remain a risk, and the company's cost control will need careful monitoring. Inflation in house prices is also a risk for HGL, as it reduces the number of potentially viable properties in the borough; the strategic review of HGL will seek to examine and analyse the viability of options that could address this risk. Land valuation inflation could also affect Montagu, as the valuations upon which the original cost assumptions were based may no longer be sufficient.

60. Inflation could also impact the assumptions made on the cost of Montagu redevelopment, due to the slippage in timetable. While this does not directly affect the Council, as it is not liable for development costs under the Members Agreement, it may reduce the overall return of the project, or financially impact on Henry Boot's ability to complete the project.

Optimism bias

61. There is a general risk of optimism bias or corporate blindness within the Council, which could lead to risks being unaddressed or unidentified, resulting in company failures. The Council addresses this by reporting widely within the organisation, as well as involving external opinion and oversight at key points; for example, in reviewing investment business cases, and in conducting the strategic reviews which will assess options. These exercises have helped the Council identify key risks as well as providing assurance through scenario planning, including scenarios significantly worse than the projected business case, to assess the extent of contingency and comfort for the Council. They have also driven improvement, e.g. a current exercise to update and streamline Energetik's financial model to be more adept at scenario planning in itself was an outcome of a due diligence review on the expansion business case by EY (it should be noted that EY found no concerns with the data or conclusions of the model, only that its build could be revised to allow more reactiveness and planning ability).

Funding conditions

62. Many of the loans and grants to the Council in relation to Energetik come with conditions due to being governmental sources of funding directed at certain policy outcomes (specifically decarbonisation). This means that there is a risk that while the total amount of funding for Energetik may be as required, if the profile of spend changes, conditions attached to funding

sources may mean that those sources cannot be utilised in full, and therefore different sources have be identified to cover some expenses. This is monitored through regular contact and client meetings with the company directors.

Covid-19 and Brexit

63. Risks associated with Covid-19 have generally been resolved at the time of reporting – although their future applicability will of course depend on the future path of the pandemic. HGL suffered a substantial devaluation in its portfolio, although this has begun to recover in the current financial year, and the portfolio remains of sufficient value to cover the Council's loans to the company. The company's rent arrears increased and have remained at the point of tolerance level (4.6%). This remains a risk and continues to be monitored for any further increase.

64. Energetik suffered some delay to construction of energy centres at its satellite networks as a result of lockdown restrictions, however these are all complete at the time of reporting.

65. The central change as a result of Brexit is from state aid regulation over the Council's lending and equity in the companies, to subsidy control. Previous decisions will continue to apply as before, and the system are similar in nature, therefore there is not expected to be any significant risk to future decisions.

Performance of the Companies

66. As identified above, the companies report performance quarterly, in additional to filing annual accounts as required by law. A full annual report is due to be presented to Cabinet in January on financial and service performance for the companies.

67. The companies report performance from both a financial perspective, as well as service KPIs and key business plan actions. The finances initially cover high level projected profit/loss figures, including income and costs, against budget and high-level balance sheet figures; if these are under-performing against budget, then further detail will be requested to identify any issues. Key financial ratios are measured in some instances, dependent on the circumstances of the company, which inform the assessment of key risks such as liquidity. An element of return on investment is also monitored for each company (e.g. temporary accommodation cost avoidance for HGL).

68. The companies have consistently over-performed against budgeted targets, with one exception for HGL in 2019-20, when the value of its portfolio was negatively affected by Covid-19 lockdown, affecting its balance sheet revaluation reserve, with the write-down being put through the profit and loss result; otherwise, the company would have returned another positive result. HGL's balance sheet has remained positive, indicating good security of the Council's loans. It has delivered an estimated £10.4m of temporary accommodation cost avoidance over its life to date, a return on investment of around 8%.

69. Energetik is not due to record net profit until March 2027; however, it has controlled its losses to substantially below the projections of its budgets, in part due to being over a year ahead of its current connections targets (though there are risks for the next couple of years, as outlined above). The company recorded a positive balance sheet in its most recent accounts, however the assets included may not be in a saleable position until further construction and development is complete, therefore risk still remains.

70. While not delivering profit, Energetik does pay an interest premium on its loans, therefore there is a positive return for the Council.

71. The Council has also accepted government grant payments on Energetik's behalf and there is a risk that the grant conditions are not met. The risks are mirrored in the Council's funding agreements with Energetik, and this risk is monitored through a project schedule and regular officer meetings.

72. HGL does not record an interest premium; due to the nature of its business and the submarket rental rate charged, it is exempt from previous state aid and current subsidy control regulation. The Council therefore lends at cost (including both its own interest and administration costs), in order to assist the company in maintaining cash flow, as the Council's financial return is achieved through cost avoidance. Similarly, although HGL consistently records higher than expected profit, the Council does not take dividends as the profit is in part property value rather than cash profit, and to take a dividend against that value would create unnecessary liquidity risk for the company, meaning the Council may realise less return on investment in the long-term.

73. Phase 1 construction of the Montagu regeneration is underway and lets have been agreed on some units, with income from these units likely to commence in the new year. Monthly management accounts are produced and presented to company meetings quarterly and provided to the Council finance team.

Safeguarding Implications

74. There are no safeguarding implications to this report.

Public Health Implications

75. The specific proposal does not have any implications for public health. However, Energetik and HGL do contribute to public health through the low-cost heating and housing they respectively supply, and therefore it is important to monitor their performance to ensure such benefits continue.

Equalities Impact of the Proposal

76. The proposal is to note progress. As there is no decision required, an Equalities Impact Assessment is not applicable.

Environmental and Climate Change Considerations

77. The proposal does not have any direct climate change or environmental impacts, although Energetik's business plan works towards significant carbon reduction in energy provision. Impacts of particular company proposals or business plans will be considered in the relevant reports.

Risks that may arise if the proposed decision and related work is not taken

78. If companies' performance is not monitored and reported, then the companies may fail to deliver against objectives, and may not contribute towards the Council's Corporate Plan, or provide a return on the Council's investment. Cabinet may be unable to fulfil its role as shareholder guardian in ensuring that companies continue to align strategically with the Council's objectives.

79. The specific risks arising in the event that companies fail are detailed above. There would, in addition, likely be substantial reputational risk to the Council, and the possibility of a Public Interest report similar to those issued in relation to other local authorities.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

80. The proposal is to note progress, to provide assurance on company performance, and to provide an opportunity for oversight and challenge. There are therefore no specific risks arising from the proposal relating to the companies considered. However, the general risks in relation to the companies are detailed in the report above.

Financial Implications

81. HGL had £121m in long-term loans from the Council outstanding at 31st March 2021, against a portfolio value of £130m (note 11). This indicates that the value of the portfolio provides effective security over the Council's loans, with a buffer of around £9m in total excess value. Therefore, the Council would be able to recoup its loans to the company in the event of failure.

82. HGL has contributed £10.4m in cost avoidance to the Council's revenue account and savings plans across its life as a business. It currently delivers around £2m per year.

83. Energetik had outstanding long-term loan amounts of £12.6m, against a fixed asset value of £5.07m. This indicates that the Council's loans remain at high risk until further saleable assets are developed.

84. Montagu is projected to cost £56m in land acquisition to the Council across the project. The Council has budgeted a total of £1.2m income in its current MTFP savings plan, consisting of £300k in 2023/24, and £900k in 2024/25.

Legal Implications

85. The Council has a general power of competence under Section 1(1) of the Localism Act 2011 to do anything which individuals generally may do provided it is not prohibited by legislation and subject to public law principles. In addition, in accordance with such Act, the Council can set up a company under the Companies Act 2006 to do, for a commercial purpose, that which it is empowered to do under the general power of competence.

86. When supporting the companies, particularly in its role as lender/funder, the Council must be continually mindful of the rules with regard to state aid. 'Aid' in this context means any benefit conferred, not just monetary payments. This could include any services/resources provided by the Council to the company at less than market value.

87. When taking any actions in its role as shareholder, the Council must also be continually mindful of the requirements of the Companies Act 2006, and the requirements contained in the Articles of Association of each company.

Workforce Implications

88. There are no workforce implications to this report.

Property Implications

89. There are no property implications.

Other Implications

90. There are no other implications to this report.

Options Considered

91. The only alternative option is not to report or monitor progress, which as identified in paragraph 54 may result in a lack of cohesion between the Council's objectives and its use of companies and place the Council's investments in its companies at greater risk.

Conclusions

92. The progress of the companies and the risks to the next stages of development should be noted and should continue to be monitored and reported.

Report Author: Will Wraxall
Shareholder & Commercial Partnerships Manager
will.wraxall@enfield.gov.uk
0208 379 1265

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