

This Land Monitoring Update

To: Strategy & Resources Committee
Meeting Date: 29 March 2022
From: Director of Resources & Chief Finance Officer
Electoral division(s): All
Key decision: Yes
Forward Plan ref: 2022/052

Outcome: The Committee is appraised of progress made with implementing actions arising from the shareholder review. This Land is enabled to refresh and progress its business plan, including house sales and appointment of the next Chair of the company.

Recommendation: The Committee is invited to:

- (a) Note and comment on the report and progress with the action plan;
- (b) Note the areas highlighted for consultation with the Council: potential for collaboration on future developments and risk appetite relative to meeting housing needs;
- (c) Permit and enable sale of properties, owned by This Land, at the sites listed at section 3.5 of this report, and at Horningsea, varying the Council's associated rights and mortgages as set out at section 3.5; and
- (d) Authorise the Section 151 officer, in consultation with the Chair and Vice Chair, to exercise the shareholder rights in relation to appointment of the next Chair of This Land, in accordance with section 2.8 of this report.

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1. Background

- 1.1 This Land is the Council's wholly owned property development company. As at March 2022, the financing advanced to This Land by the County Council is as follows:

Long Term Loans	£113.851m
Equity	<u>£ 5.851m</u>
Total	£119.702m

These figures are (as planned) unchanged from the last update to this Committee in January 2022. Diminution of the investment value or returns from This Land, or divergence from the long-term plan for overall profitability are a recognised risk in the Council's corporate risk register. The Council is currently receiving revenue interest (a £6m net contribution is expected this financial year).

- 1.2 In addition to interest, the Council has also already received capital receipts from This Land in excess of £75m for the transfer of property at market value.
- 1.3 At the last meeting of this Committee in January, the results of a comprehensive shareholder review, undertaken by Avison Young (AY), a property consultancy, were reported. The review identified that overall the company's approach to development appraisal and related assumptions were broadly sound, that some essential enhancements to risk management and reporting were required and that the structure of the company and calibre of directors in place provided a springboard for the next stage of the company's development.
- 1.4 The review focused on important recommendations for improvements, which can be summarised under three broad headings: financial and commercial, resourcing and personnel and strategy & objectives. This Land has accepted the recommendations from the review for its part and is working constructively with the Council on their implementation.
- 1.5 Following a reset to the company's plans in April 2020, There are several strands to This Land's business activities. It is acting as the master developer for three large sites: Worts Causeway, Burwell and Soham Eastern gateway. This means developing a minority of the homes itself and providing site-wide infrastructure and placemaking for the whole development but selling parcels of land for delivery of the majority of homes to another developer. It is directly developing sites at Over, Ditton Walk and Brampton and on a smaller scale at Fitzwilliam Road, Horningsea, Malta Road and Foxton. The process to dispose of other properties which This Land has assessed it is not best placed to deliver itself has now nearly completed. This Land has two further strands of activity, further acquisitions for direct development and strategic land promotion, where the company intends to promote (but not own) land for planning permission profiting from the uplift in value. On these last points, the AY review drew attention to the large part of this aspect of the plan relating to currently unidentified sites and that the work to identify was behind the timescales scheduled in the company's business plan.
- 1.6 At sites that This Land has already identified and secured, the company has plans to deliver 394 homes, of which 136 would be affordable homes. It is anticipating that it will deliver a further 150 homes at, as yet, unsecured locations.

2. Progress with action plan and addressing recommendations

- 2.1 In appendix one we have included the summary commentary received from This Land that provides its first formal response to the action plan and highlights the approach to risk management. Following the publication of the AY findings a formal shareholder monitoring meeting was held on 20 January 2022 followed by a consultative workshop including the entire This Land board and representatives of the Council on 24 February 2022. A further shareholder monitoring meeting is scheduled for 24 March 2022, to which all members of this Committee have been invited.
- 2.2 The County Council is clear that decisions about the operation and direction of the company are matters for This Land's directors, but the Council is an important consultee as shareholder as well as exercising crucial oversight and due diligence roles as the company's only lender. Emerging from the company's consideration of the AY recommendations and the latest context, the following strategic priorities have been presented by the directors as deliverable:
- Meeting all financial obligations and repay loans and interest
 - Ensuring appropriate financial resilience and strong liquidity
 - Increasing the focus on delivery of affordable homes and wider housing needs
 - Working collaboratively to be more transparent with the shareholder and other stakeholders, including the communities served
 - Core focus on environmental and social governance
 - Added focus on customer service
 - Well connected, safe and environmentally friendly developments
- 2.3 In addition to the workshops above, Council officers have undertaken a walk-through of the first stage of updates to This Land's financial model. We understand that the company will be growing its internal capacity for financial modelling. It was evident that a number of corrections and updates have already been made to the model and that the re-working and redesign recommended by AY will be progressed once the internal modeller is in place. Work to separately report on the secured and unsecured aspects of the business plan has also been completed, and we will review its onwards reporting to the board. This Land have illustrated a number of options/scenarios that the board is considering, utilising some of the upside from recent disposals to address some of the risks that AY have identified. The Council will undertake an updated assessment and will seek external validation of the full updates as soon as it is ready.
- 2.4 As a result of the remodelling and consultation the company is undertaking the Council anticipates that in the pending update of the business plan, the company will seek to:
- mitigate the risk exposure by targeting a higher level of cash surplus in 2031 (£9m as opposed to £4m planned in the April 2020 model),
 - rephrase the requirements for securing future land and land promotion over a longer timeframe (this approach requires utilising further borrowing from the Council in the late 2020s) and
 - making a modest reduction to the number of future sites to be identified (but with an increased level of profitability assumed, taking account of market conditions)

The Council itself has a part to play in aiding the company's identification of future land. Property has not been transferred from the Council to the company for several years and it is unlikely that a similar approach of selling a varied portfolio, at the early stages of planning, would be appropriate in future. There are though opportunities for the Council and This Land to work together, given the Council's extensive land holdings to collaboratively identify suitable future acquisitions or promotions, utilising the respective strengths and structures of two organisations. This is an area for consultation and liaison with the Council.

- 2.5 This Land has set out that it can increase its delivery of affordable homes and response to other housing needs, mindful of its unique position locally as a subsidiary company of a public sector owner. Affordable housing is much needed in Cambridgeshire: a significant proportion of local residents cannot afford to get onto the home ownership ladder. The Cambridgeshire and Peterborough Combined Authority has ambitious targets for housing delivery, including 100,000 new homes between 2018 and 2036 at least 40% of which will be affordable. This Land can make a growing and important contribution to the Collaborative Action strand of CPCAs strategy for delivery, in its blended role as a private company, publicly owned, housing specialist.
- 2.6 A second area for consultation with the shareholder is the extent to which this ambition is prioritised relative to risk mitigation. In broad terms the greater the number of affordable homes delivered the more profitability is required elsewhere in the business to support this. It is in order to maximise delivery of affordable housing that the company has not gone further to reduce the return expected from currently unsecured future land promotions or acquisitions. The company has committed to liaising closely with partners to fully appraise scenarios of this type in reconsidering its business plan.
- 2.7 The company has already added additional resources to its land team and is advanced with plans to supplement the finance function.
- 2.8 The company Chairman retired in February and the board is empowered to appoint an acting Chair from amongst its number. The Chair of the This Land Remuneration and Nominations Committee and the Council appointed directors have consulted with the shareholder on the appropriate way forward for appointment of a permanent chair, a decision for the shareholder. Part of that process will include consideration/interview by a Councillor consultation panel, including members of the Strategy & Resources Committee. Under part 3B of the Council's constitution, express provision is made for the section 151 officer to exercise the functions of the shareholder where authorised by this Committee. It is therefore proposed that the section 151 officer is authorised to exercise the Shareholder's right of appointment of a Chair, in consultation with the Chair and Vice-Chair, having regard to the recommendations of the This Land Remuneration and Nominations Committee, board and the Councillor consultation panel.
- 2.9 In terms of governance, the Council has taken the opportunity in view of the business plan update and AY recommendations to instruct an external legal advisor to give an updated view on three areas:
 - Consolidation of loan agreements – these are currently spread across a number of documents and there is an opportunity to consolidate these whilst ensuring the Council has the expected and standard rights and oversights as lender
 - Review of company governing documentation and the interface with the shareholder,

ensuring this is clearly set out and that the new mirror board is setup appropriately

- Updating the assessment and mitigation of technical considerations such as subsidy control, best consideration and arms-length operation so that this remains suitable and informed during the next stage of the company's development.

3. Property development and programme updates

3.1 As part of the oversight and diligence the Council exercises as a lender to the company, an external monitoring surveyor has been appointed to inspect and report on the developments at Over and Ditton Walk, which are the furthest progressed in terms of construction. The monitoring surveyor reviews:

- Planning
- Building Control
- Warranty
- Programme
- Project costs
- Procurement and contracts
- Quality of construction
- Health & safety



3.2 At Ditton Walk, plots 1 – 10 are completed and occupied, plots 11, 13 and 14 are ready for construction and plot 12 (pictured) is completed but is not yet for sale. Plots 1 – 49 at Mill Road, Over have commenced construction in some form and are at various stages.

3.3 The monitoring surveyor identified no red/urgent issues, and 8 amber items to be monitored closely. These included discharge of planning conditions, ensuring progression of works to contract dates, monitoring costs, legal actions and section 106 obligations.

3.4 In April 2020, the Commercial and Investment Committee gave permission, for the Council's part, for This Land to sell certain listed properties releasing and varying the Council's mortgages/legal charge and other rights and interests in those properties. At that time the listed properties focused on those identified for disposal in that phase of the business plan. Now that further progress has been made, it is now appropriate to make provision for releases where house sales are envisaged with construction imminent. Over and Ditton Walk Phase 2 are progressing to construction and it is foreseen that individual residential sales to residents will shortly commence. During the next stages, across the whole portfolio individual house sales could entail release documents for over 300 plots. To streamline the process for plot sales it is proposed that a protocol is put in place for the provision of the release documents and removal of restrictions from the titles in advance of the plot sales commencing. This would mean:

- The Charge is released on a plot by plot basis with required documents (the DS3, RX4 and Deed of Release) being released to the relevant plot sales conveyancers on a monthly basis for the plots anticipated to complete that month.

- The Planning Overage and Pre-emption Agreement are released across the whole Property at an appropriate point prior to the plot sales commencing and the restrictions removed from the title to the whole Property
- The Sales Overage is releases across the whole Property on smaller sites (such as Fitzwilliam Road, Malta Road and Landbeach) and for larger schemes the release of the Sales Overage is phased to tie in with the construction phases. This proposal is provided given that the Sales Overage is concerned with the sale of undeveloped land.
- Where relevant the restrictions protecting the Profit Share Overage are removed on a plot by plot basis and are bundled on a monthly basis in the same way as the releases in connection with the Charge.

3.5 Recommendation (c) in this report enables the above approach. House sales are the essential component of the business plan, the original purposes of the overage and pre-emption clauses will be no longer needed at the point house sales would commence or are varied as a result of the revised expectations set in April 2020. The Council will update its approach to security, including consideration of a floating charge as assets develop as a result of the advice described at paragraph 2.9 above. Therefore at the appropriate time there will be a single/phased release will be progressed at:

Single Site Release	Phased Site Release
Over, Mill Road Landbeach, Beach Farm Brampton Meadow View Cambridge Fitzwilliam Road Cambridge, Ditton Walk phase 2 Cambridge Malta Road Foxton, Foxton PRU	Cambridge, Worts Causeway (Newbury Farm) Burwell, Newmarket Road (Original purchase phases 1 & 2)- (A note Burwell has at least 6 phases and will be released over a period of up to ten years) Soham Eastern Gateway (Original purchase phases 1 & 2)

An opportunity has also come forward for a partial disposal at Horningsea to an adjacent landowner, which This Land has considered is preferable to its own development on that part of the site, so a partial sale at Horningsea is similarly recommended.

3.6 Elsewhere:

- Contracts have been exchanged at Burwell as part of the master developer approach. This results in a major capital receipt for This Land, giving the company very good liquidity foresight for the coming 12months+. The company is developing a detailed application for the dwellings which This Land will deliver which it expects to submit at the end of 2022.
- Infrastructure works have commenced on site at Worts Causeway
- At Soham Eastern progress is being made with planning considerations, which have been challenging, and in agreeing terms for relocation of a medical centre to the site
- The detailed planning consent at Brampton is expected imminently, the 30 dwelling scheme will commence later this year

4. Alignment with corporate priorities

- 5.1 Communities at the heart of everything we do
Through its housebuilding, This Land is committed to shaping places in order to contribute to the Council's efforts to create thriving places for people to live.
- 5.2 A good quality of life for everyone
There are no significant implications under this heading
- 5.3 Helping our children learn, develop and live life to the full
There are no significant implications under this heading
- 5.4 Cambridgeshire: a well-connected, safe, clean, green environment
The company has priorities to reduce its landfill to waste, commits to sustainable energy at its developments and engaging with communities
- 5.5 Protecting and caring for those who need us
There are no significant implications under this heading

6. Significant Implications

- 6.1 Resource Implications
Financial implications are set out in section 1 and throughout the report.
- 6.2 Procurement/Contractual/Council Contract Procedure Rules Implications
There are no implications for procurement or contract procedure rules.
- 6.3 Statutory, Legal and Risk Implications

Assessment of principal risks:

Description	Impact /Likelihood	Response/Mitigation
<i>Construction:</i> cost, defects, materials, milestones	Impact: Medium	<ul style="list-style-type: none"> - Monitoring surveyor reviews of cost, progress and quality - Construction contingency budget - Insurance cover / warranties
	Likelihood: Medium	
<i>Planning & regulation:</i> timing, obligations & cost of meeting planning and building regulations approval	Impact: Medium	<ul style="list-style-type: none"> - Reviews of project plans/budgets for obtaining planning consent, progress and performance - Staff expertise - Land promotion diversifies planning authorities involved
	Likelihood: Medium	
<i>Workforce & Expertise:</i> attracting and retaining talent, capacity and experience	Impact: High	<ul style="list-style-type: none"> - Director recruitment process - Monitoring turnover & performance - Diversity of experience of team members, succession planning
	Likelihood: High	

<i>Health & Safety</i> - heightened by the coronavirus pandemic	Impact: Medium	<ul style="list-style-type: none"> - External independent H&S team - Review by monitoring surveyor - Company policy and procedures
	Likelihood: High	
<i>Governance risks:</i> securing best value, acting at arms-length, legal challenge by competitors, state aid	Impact: Medium	<ul style="list-style-type: none"> - Ongoing legal representation, advice and review - Adopt formalised memorandum(s) governing Council: Company interface - State aid reference rates adopted for loans
	Likelihood: Medium	
<i>Performance of strategic land promotion:</i> competitive area, securing agreements, reputation	Impact: High	<ul style="list-style-type: none"> - Council seeks independent validation - Careful site selection - Work closely with communities - Risk and sunk costs within financial model - Build successful track record
	Likelihood: High	
<i>Master developer and non-residential development models:</i> complicated and capital intensive	Impact: Low	<ul style="list-style-type: none"> - Monitoring surveyor reviews progress and performance - Regular review of complex commercial schemes - Full prior appraisal by This Land's Development & Investment Committees
	Impact: Medium	
<i>Housing demand and economic risks</i>	Impact: High	<ul style="list-style-type: none"> - Sales strategies prudent and based on regular review of local market - This Land to develop relationships with mortgage brokers and agents
	Likelihood: Medium	
<i>Future land sales to This Land:</i> land availability	Impact: Medium	<ul style="list-style-type: none"> - Promotion of land within local plans - Seeking alternative land across wider geography
	Likelihood: Medium	
<i>Underlying company value and security/collateral, impairment to inventory</i>	Impact: High	<ul style="list-style-type: none"> - Valuations to validate ongoing value of the firm - Internal appraisals to update This Land financial model - Security over work in progress and visibility that amounts invested lead to increased value

In considering this report, the improvements recommended and next steps for the company, the Committee will be mindful of its fiduciary duty to Cambridgeshire taxpayers, with regard to best value, security of funds, risk and commensurate returns.

6.4 Equality and Diversity Implications

There are no significant implications within this category

6.5 Engagement and Communications Implications

There are no significant implications within this category

6.6 Localism and Local Member Involvement

This Land executives have committed to enhancing engagement with Members.

6.7 Public Health Implications

There are no significant implications in this category

6.8 Environment and Climate Change Implications on Priority Areas

6.8.1 Implication 1: Energy efficient, low carbon buildings.

Positive – This Land is considering how it can enhance its contribution to lowering carbon in its building plans. The homes the company is building are heated by air source heat pumps rather than gas.

6.8.2 Implication 2: Low carbon transport.

Neutral - No changes proposed in this report

6.8.3 Implication 3: Green spaces, peatland, afforestation, habitats and land management.

Neutral - No changes proposed in this report

6.8.4 Implication 4: Waste Management and Tackling Plastic Pollution.

Neutral - No changes proposed in this report

6.8.5 Implication 5: Water use, availability and management:

Neutral - No changes proposed in this report

6.8.6 Implication 6: Air Pollution.

Neutral - No changes proposed in this report

6.8.7 Implication 7: Resilience of our services and infrastructure, and supporting vulnerable people to cope with climate change.

Neutral - No changes proposed in this report

Have the resource implications been cleared by Finance? Yes

Name of Financial Officer: S Howarth

Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the Head of Procurement? Yes

Name of Officer: C Ellis

Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or Pathfinder Legal Services? Yes

Name of Legal Officer: F McMillan

Have the equality and diversity implications been cleared by your Service Contact? Yes

Name of Officer: T Kelly

Have any engagement and communication implications been cleared by Communications?

Yes

Name of Officer: C Birchall

Have any localism and Local Member involvement issues been cleared by your Service Contact? Yes

Name of Officer: T Kelly

Have any Public Health implications been cleared by Public Health? No
Not applicable

If a Key decision, have any Environment and Climate Change implications been cleared by the Climate Change Officer?

Name of Officer: E Bolton

7. Source documents

- 7.1 AY report considered at January 2022 Committee
[Strategy and Resources Committee 27 January 2022](#)