

Title of meeting: Cabinet Meeting

Date of meeting: 14th February 2022

Subject: Springvale Management Company Limited (company 2630602)

Report by: Tristan Samuels Director Regeneration

1. Purpose of report

- 1.1 To update the Cabinet on the City Councils part ownership of Springvale Management Company Limited.

2. Recommendations

That the Cabinet

- 2.1 Notes the appointment of the Assistant Director Property and Investment to the board of Springvale Management Company Limited (SMCL);
- 2.2 Delegates authority to the City Solicitor to liaise with the company secretary of SCML to obtain a copy of the terms of appointment of the Assistant Director Property and Investment
- 2.3 Delegates authority to the Director of Regeneration, in consultation with the City Solicitor and s151 Officer, to represent the Council as shareholder in matters relating to the operation of SMCL; and
- 2.4 To report no less than annually to the Cabinet on the performance of the company and any other relevant matters relating to it

3. Background

- 3.1 Portsmouth City Council owns 18 out of 112 ordinary shares in Springvale Management Company Limited and holds a (1 out of 2) Directorship of the company.
- 3.2 Tom Southall is the nominated Director of the company on behalf of Portsmouth City Council. The business activities of the company are managed and undertaken by Savills, Birmingham.
- 3.3 The ownership of the company shares is necessitated by the ownership of Unit 3 Springvale Business Park, Bilston (Sharps Bedrooms). Unit 3 was acquired in December 2016 and forms part of the Council national property investment fund which yields the council in excess of £9 million per annum.

- 3.4 SCML operates as a property management company and is responsible for the management (including maintenance) of Springvale Business.
- 3.5 Each freeholder owner on the Springvale Business Park estate owns shares in SCML. The two largest shareholders have responsibility to control / operate the business through Directorships (currently PCC and Canada Life).
- 3.6 The total cost of the services performed by the company (circa £40K per annum) in relation to the Business Park are recovered from all the shareholders / occupiers on the estate by way of service charge.
- 3.7 PCC costs in relation to SCMLs activities charged under the service charge are paid by the occupying tenant Sharps Bedrooms. However, not all costs in relation to discharging the duties as Director of the company are recoverable through the service charge provision. These fluctuate annually and are estimated to be circa £5,000 per annum.
- 3.8 The activity (management of the estate) carried out by the company is undertaken under contract by Savills. Savills have undertaken this role for many years and the company is currently planning to review this operational contract in the coming financial year.

4. Legal comments

- 4.1 The City Solicitor has had no involvement in the governance of this company and has not significantly considered the company governance arrangements (i.e. Articles of Association and, if there is one, the shareholder agreement) which govern the functioning of the company. It is noted that Companies House records that Canada Life Limited is the listed Persons with Significant Control on the basis of owning more than 25% but not more than 50% of the company.
- 4.2 It is understood that the Council's involvement in the Company is as a direct consequence of the Council's ownership of the property referred to at paragraph 3.3 of this report. The property is within an 'estate' referred to as the "Springvale Business Park" which is managed by SMCL. As part of a land transaction in 1995 (to which the Council was not a party), the property benefits from 18 shares in SMCL and the right to nominate a person to be a director of the company. These benefits transferred to the Council on purchase of the property in 2016 whereupon the Council's Assistant Director of Property and Investment became the Council's nominated person to the company board. The arrangement described in this paragraph is quite a common arrangement to ensure a common property maintenance responsibility over the common areas of such an estate. SMCL is a private limited company and as such the Council's liability to the company is limited to the value of its shareholding in the company. The Council owns approximately 16% of SMCL. As part owner, the Council has a statutory right to inspect certain documents, records and registers of the company (including but not limited to the register of members, directors, debenture holders, resolutions and meetings). It is not clear at this time whether the % of ownership of the company gives the Council a similar share of the vote in company decisions or whether the shares carry additional voting rights.

- 4.3 If ownership rights and voting rights are equal, then because the Council owns more than 10% of the company, then by law the Council also has additional rights such as the ability to circulate a written resolution, require a general meeting to be held and to require an audit (where the company would otherwise be exempt)
- 4.4 However it is likely that such a small shareholder would not give the Council any additional rights to unilaterally influence the strategy and functions of the company, such as to appoint directors (save the right to appoint a director as detailed in paragraph 4.2), or to block or pass ordinary or special resolutions of the company.
- 4.5 The recommendations in this report therefore pose no significant risk to the Council.

5. Chief Finance Officers Comments

- 5.1 There are no direct financial implications as a result of the recommendations within this report.
- 5.2 As the main body of the report suggests there is a small cost to the Council through its shareholding in this company of £5,000 payable to Savils, this is met from the rent generated from the Freehold ownership that yields £9m per annum.
- 5.3 An examination of the latest set of audited accounts shows the company breaks even as charges incurred by it are then levied to the occupiers of the site through a service charge.

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Signed by: Tristan Samuels, Director of Regeneration

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: