



City of Westminster

Shareholder Committee

Meeting or Decision Maker:	Shareholder Committee
Date:	6 December 2021
Classification:	General Release – except exempt appendices
Title:	Westminster Builds – mid-year report
Wards Affected:	All
Company Affected:	Westminster Builds - Formally: <ul style="list-style-type: none">• Westminster Housing Investments Ltd - 11413846• Westminster Housing Developments Ltd - 11417174
City for All/Policy Context:	Good governance of council-owned companies
Key Decision:	No
Report of:	Westminster Builds' Chair and Managing Director

1. Executive Summary

- 1.1. This report being the first to the newly established Shareholder Committee sets out the background to Westminster Builds' (WB) formation, the company's objectives and benefits it brings to Westminster City Council.
- 1.2. Westminster Builds' Directors hold dual roles within the company and Council which helps ensure the purpose of the company remains closely aligned to the ambitions of the Council. This is reinforced by most of the staffing and resources required by the company coming from Council departments.
- 1.3. The company has had a successful year. Its joint venture at Luton Street continues to progress at pace, to a high quality, and achieving strong sales ahead of practical completion. The company is also on track to acquire a total of 71 homes in 2021/22 across Farm Street, Jubilee, Parsons North and West End Gate, in line with business plan assumptions.
- 1.4. The report sets out the company's governance arrangements, noting how they closely align to the Council's, and welcomes the establishment of the Shareholder Committee.
- 1.5. Following the conditional approval of WB's Business Plan for 2021/22, the Board is reviewing the company's future activity including the impact of the removal of out of borough activity and reassessment of the company as an effective tool for the Council to deliver its developments.

2. Recommendations

- 2.1. That the Shareholder Committee notes this report and to provide guidance to the WB Board on the governance queries outlined in paragraph 5.8.

3. WB Background

- 3.1. Westminster Builds (WB) was established following a Cabinet Report in December 2017, as a response to help deliver the Council's ambition to increase the supply of affordable housing within Westminster.
- 3.2. In June 2018 Westminster Housing Investments Limited (WHIL) and Westminster Housing Developments Limited (WHDL) were incorporated at Companies House. Both WHIL and WHDL are now collectively known under the brand of 'Westminster Builds'. This single brand creates an identity that is distinct from the Council whilst remaining part of the Westminster family.
- 3.3. The Council has 100% of the ownership and control of Westminster Builds, as it is the sole shareholder of WHIL, which in turn is the parent company and sole

shareholder of WHDL. In this two-company structure, WHIL acts as the investment company, holding and renting completed properties for long term return and WHDL as the development vehicle, acquiring land and developing properties for a range of tenures. The structure also enables greater tax efficiency by separating activities which have different VAT treatment and could limit recoverability.

3.4. To date the Council has been the sole source of financing for the company, providing funding through a mix of interest-bearing debt and shareholder loans, which are interest free quasi-equity investments. This mix of funding ensures the Council retains liquidity and flexibility over its investment and does not tie up resources in the company which are later difficult to withdraw. The company, with the shareholder's approval, may seek alternative finance, however to date this has not been pursued or deemed necessary.

4. Westminster Builds' objectives and benefits to the Council

4.1. Westminster Builds was created in 2017. At the time the Council's development aspirations were facing restraint from the HRA borrowing cap and the resources available to the Council. The creation of a housing subsidiary offered an opportunity to extend the resources available to the Council and maintain delivery.

4.2. The 2017 cabinet report set the following objectives for Westminster Builds:

- Extend the Council's resources by working with the Council (where the Council's view is that other delivery partners are neither available nor appropriate) to deliver the regeneration and new build or acquisition opportunities identified by the Council.
- Operate on a commercial basis but offering new tenures and intermediate tenures to extend the range of provision available to Westminster residents
- Work to the scale and pace set by the Council.
- Work to the Council's quality standards to help ensure quality housing is provided for all income ranges.

4.3. Westminster Build's Board has built upon these objectives and identified the key benefits the company can offer to Westminster:

- The Council retains full control of the assets and benefits created by the company over time, either returned to the Council through dividends or bringing the assets of the company back in-house.
- WB can hold and operate homes which cannot be efficiently operated by the HRA or GF, including intermediate rent and market rent. This widens the range of tenures the Council can offer whilst retaining the long-term value of homes built within Westminster in the Council group.

- The company provides opportunities for the Council to take a more commercial, market facing approach on some schemes delivering a return to the company which the Council could use to subsidise strategic priorities or other Council services.
- The value generated by Westminster Builds can be used by the Council without restriction, e.g. it could fund adult social care, the wider capital programme or be reinvested into future developments.

5. Company Governance

5.1. While Westminster Builds consists of two companies it acts as one organisation, with a single board that meets bi-monthly. The Board comprises 4 directors who provide oversight, influence, and future direction for the company. These directors are appointed by the shareholder, as a reserved matter, and can be removed by the shareholder by notice. The current Board membership is:

- Cllr Jacqui Wilkinson (Chair)
- James Green (Interim MD)
- Stephen Muldoon (Finance Director)
- *Neil Wightman - pending appointment by the Shareholder Committee*

5.2. While the Board is responsible for the day to day running of the company and is the decision-making body, the shareholder retains ultimate control. At present, the company does not employ any staff or directors directly and so directors have dual roles in both the Council and the company. The dual role of each director in the company and Council helps ensure the purpose of the company remains closely aligned to the ambitions of the Council.

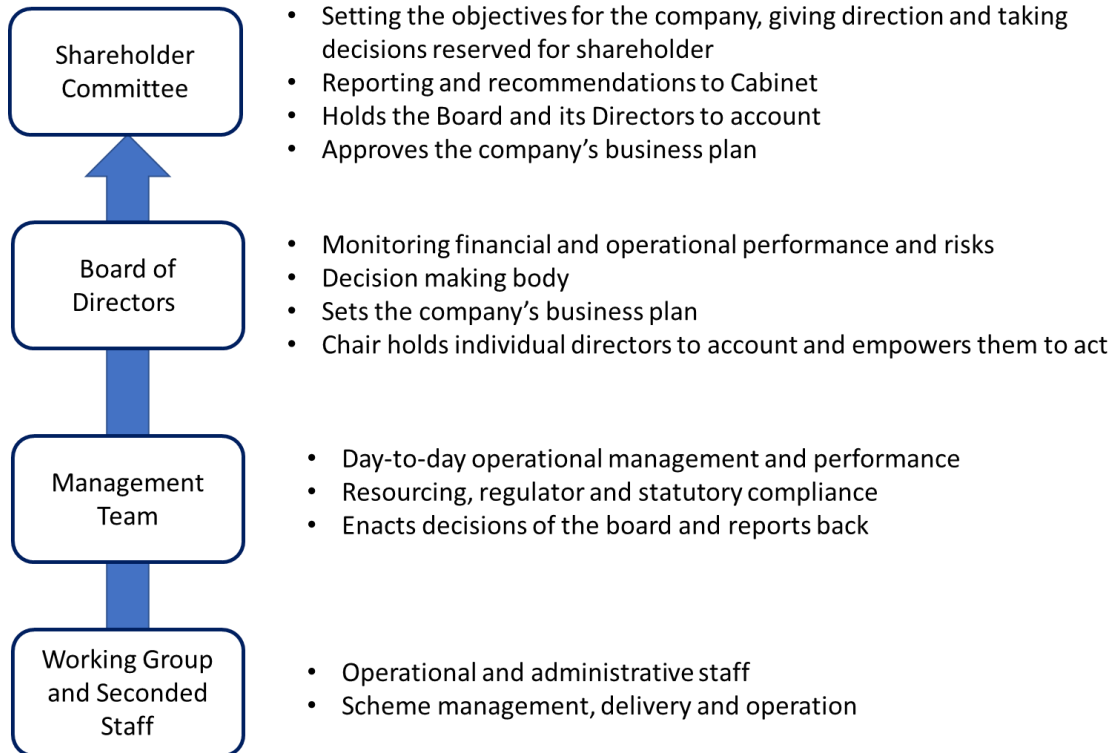
5.3. The Board, which meets at least every two months to receive reports, votes on resolutions and empowers and holds to account the individual directors. The Board sets the strategy of the company through its business plan, which is approved by the Shareholder Committee.

5.4. On a project level, the company has developed governance structures and processes which mirror the Council's own governance, to ensure its activities are adequately controlled. It is aligned with the Council's Capital Review Group and business case process to ensure the Council is fully informed of transactions between WB and WCC. All capital expenditure decisions are considered and voted upon by the directors with a quorum of three directors.

5.5. The shareholder's powers are established in the Articles of Association, which sets out the business of WB and the matters reserved for the shareholder. While this document sets the context for engagement between the Board and WCC, the Board welcomes the establishment of a Shareholder Committee and the proposed Memorandum of Agreement. The Board believes WB can only continue to be successful if it sustains a close and transparent relationship with the Council.

5.6. The diagram overleaf sets out the key bodies responsible for the strategic and operational management of the company

Diagram 1 – Governance Structure



5.7. WB was subject to a scheduled Internal Audit in May 2020 alongside the Council's other subsidiaries, which concluded that there was satisfactory assurance. Following Internal Audit's report WB worked carefully through its recommendations and has concluded 6 of the 7 actions for the company. The final action is to set up a formal and annual evaluation of the performance of the Board and individual Directors.

5.8. The following governance issues are outstanding and for progression by the Council, subject to steer and comment from the Shareholder Committee:

- Preparation and approval of a Memorandum of Agreement and Service Level Agreement between the Council and WB, which will need to incorporate the work done by WB on defining this relationship, the services required and how those services would be paid for by WB.
- Appointment of a director (subject of another agenda item) – Neil Wightman has been fulfilling this role. Internal Audit suggested that the appointment of a Non-Executive Director be considered also.

- The Terms of Reference of the Board, together with the Scheme of Delegation may need to be revisited as there is not currently a designated Managing Director.
- Internal Audit recommended that the Council should consider updating the Members' Code of Conduct to explicitly state that it also applies to Councillors on subsidiary boards.

6. Staffing and Services

6.1. WB has sought to minimise direct staffing and additional services in favour of using WCC's services where possible. This relationship is set out in individual schemes' service level agreements and management agreements. It is understood that the approval of the Memorandum of Agreement will enable the draft service-level agreement (SLA), which WB developed, to be signed. The SLA covers:

- Housing Management Services: Day to day property management and maintenance services
- Surveying Services: Development, Programme and Delivery Management.
- Accountancy Services: Property Finance and Business Accounting.
- Other services: For example, office space, IT, HR etc.

6.2. The agreement will define the level of service expected and the duties and responsibilities of both parties. In doing so, formalising the staffing and services relationship between WB and the Council. The SLA will be taken through both WB and WCC governance processes before coming to the Shareholder Committee for agreement in 2022.

6.3. From time to time, WB is required to make external appointments to provide independent oversight and constructive challenge to the running of the business. Key appointments include:

- Gowlings WLG – Legal
- Cooper Parry Group – Auditors
- TBC – Financial modelers (live procurement)

7. Operational Activities

7.1. The company has rapidly developed over the past 4 years, growing from a newly formed company with 4 exemplar schemes to a business with an ambitious programme of delivering 2,000 homes in its 2021/22 business plan. While the Board accepts the Council's decision not to take forward out of borough development at this time and welcomes a time of consolidation and focus on delivery of in-borough schemes, the Board is keen to celebrate the successes of the company achieved in a relatively short period of time. These are summarised below.

Developments:

- 7.2. Since entering into the Luton Street LLP with Linkcity, Westminster Builds, alongside the Council, has ensured the project delivers at pace and to a high standard. The sales programme has been successful, achieving the accolade of the best-selling London scheme during lockdown. It is anticipated that the 3 social rent townhouses at Fisherton Street will be complete in January 2022, with the remaining 169 homes including 59 affordable at the main site following in Summer 2022.
- 7.3. The LLP partnership with Linkcity has demonstrated the company's ability to work productively with developers and this has been recognised with nominations at the RESI awards for "Deal of the Year" and "Social Impact Initiative - Residential"
- 7.4. The company's intervention in Jubilee Phase 2 helped unlock a problematic site for the Council and which is now progressing towards completion in early 2022. The 19 homes will be rented at a discount to market rent increasing the number of affordable homes delivered by the scheme.
- 7.5. WB's team have been working closely with the project team on 300 Harrow Road and the project's Full Business Case was approved by CRG in the summer. The Council is currently undertaking a benefits analysis of transferring the scheme to WB versus building out directly. The scheme itself remains viable and work on site continues apace.

Acquisitions:

- 7.6. The first acquisition by the company at Farm Street required a significant shift from the theoretical to the practical and involved building the groundwork and setting the precedents for all future schemes to follow.
- 7.7. Following the acquisition of the 14 homes at the award-winning Farm Street, the company has acquired a further 37 homes at West End Gate and is in the process of finalising the purchase of 9 homes at Parsons North.
- 7.8. The homes at Farm Street are currently being advertised through Westminster Homeownership, with priority given to local residents. The scheme will be managed by Westminster Housing.
- 7.9. Marketing of 29 of the intermediate rent homes in Block B of West End Gate has commenced alongside the 79 social homes in Block B and D. The first social tenants decanted from Church Street have now moved in. As is expected on most

schemes, both tenures will be managed by Westminster Housing on behalf of the Council and WB. The remaining 8 intermediate homes in blocks E/F will finish construction next year.

7.10. Further details of the company's development and acquisition activities can be found in the Period 6 Project Update report to the Board in appendix 2 of this report.

Performance Against Business Plan:

7.11. WB is on track to have 71 homes under management by March 2022, in line with business plan assumptions. With further acquisitions continuing into 2022/23

7.12. The business plan assumed capital expenditure of £22.6m on 300 Harrow Road and Westmead, which are both currently progressing in the Council and have not yet transferred to WB. The business plan also assumed the company would have secured its first forward fund pipeline opportunity; however, this programme has been paused in line with the Council's wishes.

7.13. Details of Westminster Builds' current year financial performance against budget as at period 6 can be found in appendix 1 of this report.

7.14. WB is currently in start-up mode, during which time it is investing significant time and resource in creating the framework agreements and governance processes needed for investing in new developments, obtaining finance from the Council, setting up SLAs and management agreements and assessing the business cases of proposed schemes, as well as the general management and monitoring of company performance and activity. Until the company delivers its first completed scheme with profit, it will necessarily be incurring overheads which are not offset by recurring income and hence will be running at a deficit which the Council needs to support. Getting to a breakeven position on an annual basis will therefore take time.

7.15. At this stage of Westminster Builds' business plan it is highly reliant on debt financing from the Council's general fund to support its acquisition and development activities. As its asset base grows and its developments complete it will start to repay the loans with the aim of being debt free by 2060.

8. Forward Look and Next Steps:

8.1. The table below sets some of out the key activities of the company for the remainder of this and the next financial year

Table 2: Work Plan

Westminster Builds Work Plan	
December	<ul style="list-style-type: none">• Approve and submit the annual accounts and tax return• Approve legal and financial documents for the acquisition of intermediate homes at Parsons North
January	<ul style="list-style-type: none">• Endorse Business Plan for recommending to Shareholder Committee• Review Operational Budget 2022/23• Update on Torricon and WCC's Full Business Case• Agreement for Lease for Ebury Phase 1• Finalisation of Arrangements at Jubilee Phase 2
March	<ul style="list-style-type: none">• Approve Budget and Operational Plan for 2022/23
Q1+Q2 22/23	<ul style="list-style-type: none">• Luton Street practical completion and acquisition of Intermediate homes• Acquisition of Intermediate homes at Ashbridge
Q3+Q4 22/23	<ul style="list-style-type: none">• Acquisition of homes at Torricon

9. Challenges

9.1. As previously noted, Westminster Builds was established in 2017. Since then, the landscape has changed, principally with the removal of the HRA borrowing cap in 2018 and the increasing financial challenges for the HRA and General Fund. It is therefore right and proper for the Board and Council officers to re-evaluate the principles of developing through Westminster Builds.

9.2. It is well established that Westminster Builds is an effective vehicle for holding and renting tenures of housing the Council cannot do efficiently, i.e. intermediate and market rent. By doing so through WB offers more flexibility and control than through Westminster Community Homes.

9.3. The approach to developing through Westminster Builds has evolved from the original business case. Schemes are expected to transfer to the company much later in their design and development, with the council retaining a high degree of control. This limits WB's ability to add value or drive a commercial return. Combined with the removal of pipeline and out of borough schemes, the development arm of Westminster Builds has moved towards acting as a special purpose vehicle (SPV) for the Council rather than a standalone development company.

9.4. As the Council operates a hybrid model, i.e. that it continues to develop schemes alongside Westminster Builds, those schemes earmarked for WB delivery will only transfer where it is beneficial to the Council to do so. The Council and WB are reviewing those schemes to ensure that is the case and that the Council secures value for money from these deals.

9.5. It is important to note that this pause to review does not impact on overall project viability. 300 Harrow Road, the most advanced prospective WB development scheme, remains viable and is currently under construction by Willmott Dixon.

9.6. The table below shows several considerations when developing through the Westminster Builds.

Table 3: WB Delivery cost benefit analysis

Benefit	Cost
Transfers the sales risk from the Council to WB, insulating the HRA from the property market and providing certainty for business planning.	Additional complexity of the property and financial structure between WCC and WB increases costs, i.e. legal expenditure, and can create delays
Provides a treasury return (revenue) to the general fund through its margin on lending to the subsidiary at higher rates than achieved on surplus funds or borrowing from PWLB.	Potential corporation tax on profits and VAT liability (if the company is unable to form a VAT group with the Council)
Creates the opportunity to operate more commercially (e.g. through JV's) or utilise alternative finance sources without exposing the Council's balance sheet.	Initially, due to the limited capital invested in the company, the general fund will ultimately bear the sales and cost risk due to the Council's position as sole lender to WB
Over time any development surplus can be reinvested, reducing funds required from the Council to support key development schemes being undertaken by WB, or it can return to the Council to fund its services.	WB is less effective at delivering schemes with high levels of affordable units, as there is limited risk and often grant funding, reducing the value added by isolating risk in WB.

10. Key Risks

10.1. The Board have undertaken a series of extensive risk workshops led by independent professional advisors, which resulted in a comprehensive risk register being included in its annual business plan and any decision taken. The Board regularly reviews the key risks to the company. Broadly these can be categorised as corporate risks, those relating to the operation and management of the

business, and project risks, which are specific to individual schemes or programmes. The Board maintains a much more detailed risk register which is periodically reviewed and updated but the table below identifies the key corporate risks of the company as well as risks that are present in all or the majority of projects in the company's business plan.

Table 4: Key Risks

Risk	Mitigation	Risk rating
Corporate Risks		
Over time the company's objectives, future goals and vision may lose alignment with those of the Council expressed through Shareholder Committee	<p>Continuous and transparent discussions with Council officers and the Shareholder Committee. Regular reporting of progress and outcomes with decisions properly documented.</p> <p>Annual approval of the Company's business plan by the Shareholder Committee and reporting against business plan.</p>	
Lack of effective/robust governance from the Council	<p>Continued close alignment of the company's governance with the Council's existing framework to ensure scrutiny of decisions.</p> <p>Continuous communication for on-going projects and reports to WCC boards (i.e. GPH Board, CRG) and to the shareholder committee</p> <p>Maintaining primacy of the Council and shareholder in decision making</p>	
Insufficient resource to deliver both new homes and long-term management service.	<p>An SLA between the WB and the Council will define the level of service expected and the duties and responsibilities of both parties.</p> <p>Working with WCC to scope out future requirements, enabling the Council to build the capacity required for long term management</p>	
Business plan is not viable, or scheme/development risks are not well managed	The business plan will be supported by extensive modelling and sensitivity analysis around key assumptions, with the support of expert advice. Scheme proposals within the business plan will be subject to further scrutiny through the Board as well as WCC's Capital Review Group and approval processes.	

<p>Unforeseen risks experienced by other Local Authority companies</p>	<p>The WB Board receives regular updates on the issues coming out of the recent reports on the difficulties being experienced by some local authority companies, so that the lessons learnt from these experiences can be applied at Westminster.</p>	
<p>Project Risks</p>		
<p>Increased project costs due to market factors</p>	<p>Brexit and Covid-19 have caused significant shocks to both the construction and housing market leading to increased build costs, risk of interest rate increases, and a slowdown in housing market. WB continue to evaluate the market with each project undergoing scenario and sensitive modelling in addition to having appropriate levels of contingency in place.</p>	
<p>Homes prove difficult to rent or sell</p>	<p>Viability appraisals are supported by independent Red Book valuations and external advice from market experts to ensure schemes progress with homes priced and designed to suit the market.</p> <p>This engagement with market professionals continues throughout the development with external sales advice, marketing support and pricing reviewed constantly by the sales team, with a view to mitigate through bulk sales or conversions to rental if required.</p>	

13. Carbon Impact

10.2. The carbon impact of individual capital schemes put forward for approval will be addressed as part of those specific reports at the appropriate time. It is the ambition of WB to create scheme designs which are highly sympathetic to the need to minimise the impact on the environment, and reduce and minimise carbon emissions, both in the design and construction of a site as well as how they influence residents' behaviour and lifestyle in a positive way.

If you have any queries about this Report or wish to inspect any of the Background Papers please contact:

James Green, Director of Development and Director of Westminster Builds Tel: 07816 282059
Email: jgreen@westminster.gov.uk

Exempt Appendices –

- 1 - Financial Performance**
- 2 - P6 Monitoring Report to the WB Board**
- 3 - P6 Project Updates**