

Cabinet

13th February 2018

Name of Cabinet Member:

Cabinet Member for City Services - Councillor J Innes

Directors Approving Submission of the report:

Deputy Chief Executive - Place

Ward(s) affected:

All

Title:

Coventry & Solihull Waste Disposal Company – Sale of Share to Leicestershire County Council

Is this a key decision?

No

Executive Summary:

Coventry City Council, Solihull Metropolitan Borough Council and Warwickshire County Council jointly own Coventry and Solihull Waste Disposal Company Limited (CSWDC). The shareholding is as follows:

- 66 class A shares are held by Coventry City Council and they are entitled to dividends.
- 33 class B shares are held by Solihull Metropolitan Borough Council and they are entitled to dividends.
- 1 class C share is held by Warwickshire County Council, this is share does not benefit from dividends.

As well providing the primary waste treatment capacity for Coventry, Solihull, and Warwickshire, CSWDC also obtain considerable revenues from the sale of electricity, heat and waste treatment capacity to other local authorities. Over the last seven years this has helped CSWDC to return significant levels of dividends back to Coventry and Solihull councils.

A challenge for CSWDC is securing a mixture of long term and short term waste contracts to fill the waste treatment capacity not used by Coventry, Solihull and Warwickshire. Currently Leicestershire County Council supply waste to CSWDC through an existing medium term contract.

This report seeks approval to sell an additional C class share in CSWDC to Leicestershire County Council for £50,000 (to be split by the three existing shareholders), thereby securing their tonnage input for the next twenty five years. As with the existing C class of share this additional share will not attract the payment of dividends.

Recommendations:

Cabinet is asked to:

1. Delegate authority to the Director of Streetscene and Regulatory Services, Director of Finance and Corporate Services and the Legal Services Manager to agree detailed terms of the transaction.
2. Delegate authority to the Director of Streetscene and Regulatory Services, Director of Finance and Corporate Services and Legal Services Manager to enter into the relevant legal agreements and associated documents necessary to complete the transaction.
3. Approve the issue of one Class C share in Coventry and Solihull Waste Disposal Company to Coventry City Council for the immediate forward sale to Leicestershire County Council.
4. Approve the immediate forward sale of one Class C share from Coventry City Council to Leicestershire County Council, allowing them to become a shareholder in the Coventry and Solihull Waste Disposal Company.

List of Appendices included:

None

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

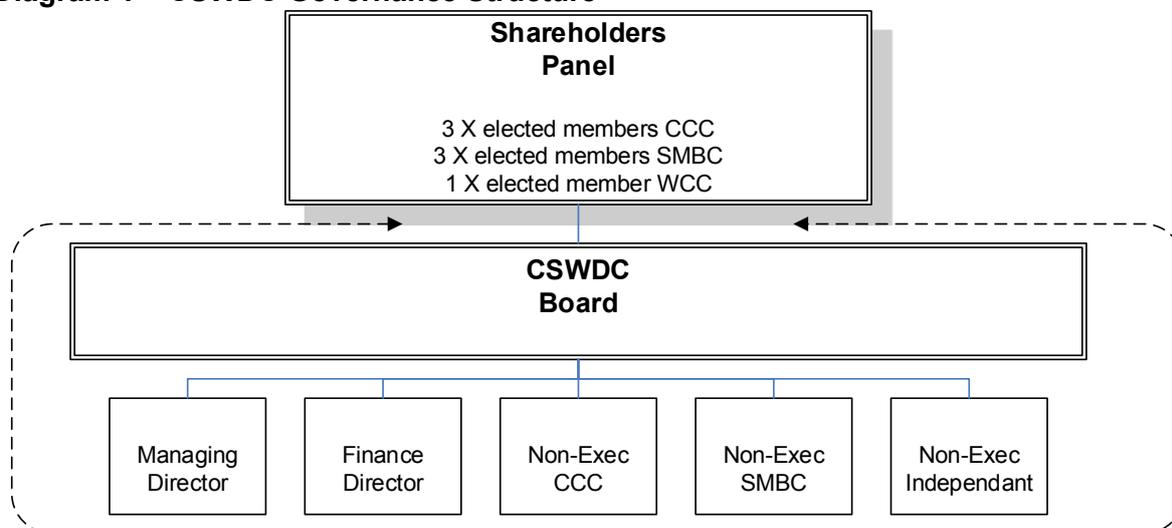
No

Report title: Coventry & Solihull Waste Disposal Company – Sale of Share to Leicestershire County Council

1. Context (or background)

- 1.1 CSWDC was formed in 1993/94 to own and operate the waste to energy plant in Coventry. The founding shareholders were Coventry City Council with 66 A class shares and Solihull Metropolitan Borough Council with 33 B class shares.
- 1.2 Following the successful introduction of recycling schemes across Coventry and Solihull the tonnage delivered to CSWDC decreased. This left CSWDC increasingly reliant upon waste inputs from other local authorities, predominantly on short to medium term contracts.
- 1.3 To improve CSWDC’s contractual mix of short and long term contracts, on the 15th July 2014 Council approved the creation of a third class of share in CSWDC. This C class share carries no rights of dividend, this recognises the historical investment by Coventry and Solihull into the existing energy from waste plant.
- 1.4 The first C class share was sold to Warwickshire County Council, with CSWDC benefitting from a 25 year commitment on future waste deliveries from Warwickshire County Council.
- 1.5 Leicestershire County Council have had a contractual arrangement with CSWDC for the delivery and treatment of waste for over ten years. During Leicestershire’s most recent procurement exercise CSWDC suggested the issuing of a second C class share in exchange for a longer term commitment on waste delivery. As with the existing Warwickshire C class share the second one would also not be entitled to dividends.
- 1.6 Following contractual negotiations Leicestershire County Council have agreed to enter into the purchase of one C class share and a 25 year commitment to waste deliveries. It is also proposed that like Warwickshire, Leicestershire will also obtain one seat at the Shareholders panel. However, it should be noted that Coventry City Council, retains its controlling interest and vote in CSWDC.
- 1.7 Diagram 1 below shows the existing governance structure.

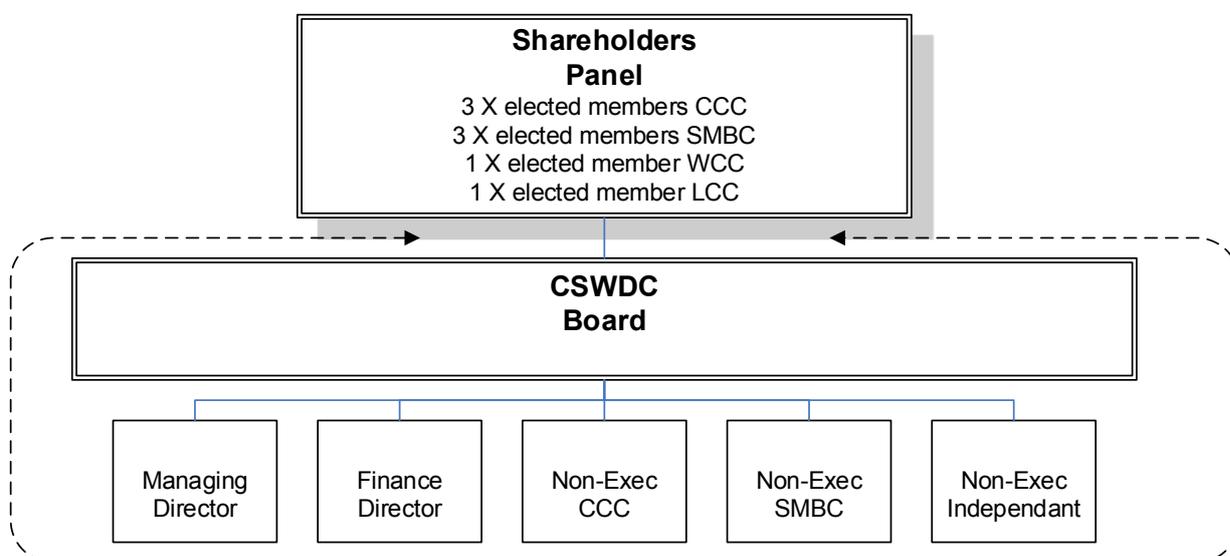
Diagram 1 – CSWDC Governance Structure



2. Options considered and recommended proposal

- 2.1 Option 1** – that CSWDC continue to bid on the open market for Leicestershire’s waste as a contractor on series short and medium term contracts. This option was discounted at an early stage of negotiations with Leicestershire as it does not provide long term certainty for all parties.
- 2.2 Option 2 (Preferred)** - with the agreement of Coventry and Solihull, Warwickshire and CSWDC would raise one Class C share, that has no dividend rights for the holder, no liabilities, and limited voting rights at the shareholders panel and board on specific matters relating to the control of the Company .
- 2.3** The Class C share would also not have the ability to appoint its own director to the CSWDC board, unlike the existing primary shareholders (Coventry & Solihull). However, as board appointments (other than those made directly by Coventry and Solihull) are by a joint elected member panel the holder of the C class share would have a right to be a member on this appointment panel. A copy of the new governance arrangements are given in diagram 2 below.
- 2.4** The proposal is that once this Class C share is issued to one of the existing shareholders (for practicalities it has been agreed that this will be Coventry), it would be immediately sold to Leicestershire County Council for nominal fee, giving them a holding in CSWDC, in exchange for guaranteed waste deliveries for the next twenty-five years.

Diagram 2 – Proposed CSWDC Governance Structure



3. Results of consultation undertaken

Significant consultation work has taken place between Coventry City Council, Solihull Metropolitan Borough Council, Warwickshire County Council, Leicestershire County Council and CSWDC to reach this agreement.

4. Timetable for implementing this decision

Following approval from Cabinet this decision would be implemented in full once the legal agreements have been agreed.

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

Coventry will receive £16.6k of the consideration paid by Leicestershire County Council for the one Class C share in CSWDC, Solihull will receive £16.6k and Warwickshire will receive £16.6k. The value in total is £50,000.

This is one ordinary class of share which has no dividend rights, therefore its issue will not directly impact any future dividends received by Coventry. Its issue does however secure minimum tonnages for CSWDC for the next 25 years which will positively impact on the company's financial position and potentially therefore any dividends issued

5.2 Legal implications

CSWDC was established in 1992 because waste disposal authorities were obliged to arrange for the discharge of their waste disposal functions through a contractor or a Local Authority Waste Disposal Company. The Secretary of State had power under section 32 of the Environmental Protection Act 1990 to give directions to waste disposal authorities which had not transferred their undertakings to waste disposal companies requiring them to do so. Section 32 of Environmental Act 1990 has been repealed but Coventry and Solihull have continued to dispose of their waste through CSWDC. To enable CSWDC to make the necessary changes to its constitution under the Companies Act 2006 the Council as a shareholder has to approve the alterations to the Memorandum and Articles of Association

The share sale agreement sets out the terms of the sale of the C share from the Council to Leicestershire County Council.

6. Other implications

6.1 How will this contribute to achievement of the Council's Plan?

The decision to sell a Class C share to Leicestershire County Council will further improve the future financial viability of CSWDC and therefore Coventry's shareholding in this arm's length company. By strengthening the financial position of CSWDC is hoped that this will help maintain the current healthy level of dividends received from CSWDC which contribute considerably to the City Council's medium term financial strategy.

6.2 How is risk being managed?

Risk will be managed through the normal CSWDC management and shareholder arrangements.

6.3 What is the impact on the organisation?

None

6.4 Equalities / EIA

There are no Equality issues arising from this decision or this report.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None

Report author(s): Andrew Walster

Name and job title: Director of Greenspaces and Regulatory Services

Directorate: Place

Tel and email contact: 024 7683 2621, andrew.walster@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Lara Knight	Governance Services Co-ordinator	Place	15 th Dec 17	15 th Dec 17
Other members				
Names of approvers for submission: (officers and members)				
Cath Crosby (Place)	Finance Partner	Place	23 rd Jan 18	23 rd Jan 18
Martin Yardley	Deputy Chief Executive (Place)	Place	23 rd Jan 18	24 th January 18
Gurbinder Singh Sangha	Major Project Commercial Lawyer	Place	15 th Dec 17	18 th Dec 17
Cllr Jayne Innes	Cabinet Member (City Services)	Place	24 th January 18	

This report is published on the council's website:
www.coventry.gov.uk/councilmeetings