AYLESBURY VALE DISTRICT COUNCIL

Democratic Services

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4 June 2018

AUDIT COMMITTEE

A meeting of the **Audit Committee** will be held at **6.30 pm** on **Tuesday 12 June 2018** in **The Olympic Room - Aylesbury Vale District Council**, when your attendance is requested.

Contact Officer for meeting arrangements: Craig Saunders; csaunders@aylesburyvaledc.gov.uk;

Membership: Councillors: C Adams, M Collins, A Harrison, P Irwin, R Newcombe, S Raven, R Stuchbury, D Town, A Waite and H Mordue (ex-Officio)

NOTE: All Members of the Council are invited to attend the meeting and to ask questions on the content of the report.

AGENDA

1. APOLOGIES

2. TEMPORARY CHANGES TO MEMBERSHIP

Any changes will be reported at the meeting.

3. ELECTION OF CHAIRMAN

4. APPOINTMENT OF VICE CHAIRMAN

5. MINUTES (Pages 3 - 14)

To approve as correct records the Minute of the meeting held on 26 March, 2018, copy attached as an appendix.

6. DECLARATION OF INTEREST

Members to declare any interests.

7. AYLESBURY VALE BROADBAND (AVB) REVIEW (Pages 15 - 94)

To consider the attached report.

Contact Officer: Kate Mulhearn (01296) 585724

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AUDIT COMMITTEE

26 MARCH 2018

PRESENT: Councillor P Irwin (Chairman); Councillors C Adams, M Collins, A Harrison, R Newcombe, P Strachan, R Stuchbury, D Town, A Waite and H Mordue (ex-Officio)

COUNCILLOR HEWSON

Prior to the commencement of the formal business of the meeting all those present stood in silent tribute to Councillor Kevin Hewson, Chairman of the Audit Committee, who had sadly passed away suddenly on 22 February 2018.

1. ELECTION OF CHAIRMAN

RESOLVED –

That Councillor Irwin be elected Chairman of the Audit Committee for the remainder of the municipal year.

2. MINUTES

RESOLVED –

That the minutes of the meeting held on 22 January, 2018, be approved as a correct record.

3. WORK PROGRAMME

The Committee considered the future Work Programme (Appendix 1) which took account of comments and requests made at previous Committee meetings and particular views expressed at the meeting, and the requirements of the internal and external audit processes.

The Audit Committee Tracker (Appendix 2) was also attached to the Committee report which highlighted ongoing and completed actions identified by Members at previous meetings.

The following matters were discussed:-

(i) Review of Aylesbury Vale Broadband (AVB) – Members were informed that BDO was still finalising the report, which would hopefully be received by the Council in the next few weeks. As agreed at the Audit Committee meeting on 22 January 2018, Group Leaders would receive a draft of the report (for information only) prior to its submission to the Audit Committee. The special meeting to consider the report would be convened as soon as possible.

The Chairman informed Members that it was intended for a short Press Release, on behalf of the Audit Committee, to be issued when the agenda for the special Audit Committee meeting was published, inviting the public and all Members to attend the meeting.

(ii) Action Tracker **AT2/17** (Commercial Property Service Charges Review) – information on this action had been provided to Members on 22 March. The overall impact on AVDC had been a potential cost recovery of £200,000 per annum. There had been no tenants lost. Service charge budgets were being sent out for next year and reconciliations were being started for next year.

(iii) Action Tracker **AT1/18** (Council Tax and Business Rates) – it was agreed that this action would be re-opened. It was clarified that there was not a limit on how far back in time the Council could go in seeking to reclaim Council tax monies owed. However, business rates monies owed could only be backdated to the start of the rating list (assuming it went back that far) so any current cases could only go back as far as 1 April 2017. Further information to clarify this position would be provided.

(iv) Action Tracker **AT2/18** – (Delegation of financial approval authority) – a briefing note on the delegation of financial approval authority had been provided to Members in January 2018 and re-circulated on 22 March. However, it was explained that this matter related to Accounts Receivable internal audit report submitted to the Audit Committee on 24 July 2017 which had identified a control weakness that invoice requests might be approved by an officer who did not have an appropriate understanding of the service to ensure accuracy and validity of bills raised. Two low risk actions had been included in the Action Plan which included to remind all TechOne users to utilise the delegation function when they were out of office, and to consider whether the current setting for delegation were appropriate and to provide guidelines to all TechOne users on how to choose the most appropriate person to delegate to.

The Director with responsibility for finance gave an undertaking to meet with one Member who had particular concerns about this process. An update would then be provided to a future meeting.

(v) Action Tracker **AT 3/18** (Corporate Risk Register) – it was confirmed that all of the Risk Register information would be included in the open part of the agenda, wherever this was possible.

RESOLVED –

That the future Work Programme as discussed at the meeting be approved.

4. EXTERNAL AUDIT - AUDIT PLAN AND FEE LETTER

The Committee received a report and External Audit Plan which summarised the proposed approach and scope of work to be undertaken by the external auditors for the 2017/18 audit in accordance with statutory requirements and to ensure it was aligned with the Committee's service expectations.

The Audit Plan had been prepared having regard to several key inputs including:-

- Strategic, operational and financial risks relevant to the financial statements.
- Developments in financial reporting and auditing standards.
- The quality of systems and processes.
- Changes in the business and regulatory environment.
- Management's views on all the above mentioned issues.

As well as the financial statement risks and value for money risks, the auditors had to perform other procedures as required by auditing, ethical and independence standards, the Code and other regulations.

The auditors had assessed the key risks which would drive the development of an effective audit and the planned audit strategy in response to those risks and had identified four significant risks to the opinion of the financial statements. These were the risk of fraud in revenue and expenditure recognition, misstatements due to fraud or error – management override and property, plant and equipment – administration and valuation.

The external auditors had also identified Pension Liability Valuation as an important issue when considering the risk of material misstatements to the financial statements and disclosures, although it had not been classified as a significant risk.

The Audit Plan restated, as in previous years, that management had the primary responsibility to prevent and detect fraud. The Plan detailed how the auditors planned to obtain reasonable assurance about whether the financial statements as a whole were free of material misstatements whether caused by error or fraud. Work would also be undertaken to consider whether the Council had in place 'proper arrangements' for securing financial resilience at the Council, and to secure economy, efficiency and effectiveness on its use of resources, which would include an assessment against the requirements of the CIPFA/SOLACE framework for local government. In due course this would be reported to the Committee through documents such as the Annual Governance Statement.

An update on the results of the audit work in these areas would be reported back to the Committee in September 2018.

As in previous years, the Internal Audit plans and resulting work would be reviewed. The findings of audit reports, together with any other work completed in the year, would help to inform detailed external audit work, including on issues raised that had an impact on the year-end financial statements.

The indicative fee scale for the audit work was £56,785, although it was possible that this fee could increase in due course if additional testing or work was required in addition to that already identified within the Audit Plan. The external auditors would be making use of third party specialists for work on the valuation of land and buildings and for Pensions disclosure and IAS 19 Liability work.

The fee for other non-audit services not covered by the audit work was £17,411 and related to the certification of Housing Benefits claims and returns annual report for 2016-17.

For the purposes of determining whether the financial statements were free from material error (i.e. the magnitude of an omission or mis-statement that, individually or in aggregate, could reasonably be expected to influence the users of the financial statements), the external auditors had determined that overall materiality for the financial statements was £1.96m based on 2% of gross expenditure. As such, any uncorrected audit mis-statements greater than £98,000 would be reported to the Audit Committee.

Members requested further information and were informed:-

(i) on the assurance work that would be done relating to the Pension Liability Valuation.

(ii) that the scope of work for the 2017/18 audit would provide an assessment on whether the financial statements of AVDC were a true and fair view position as at 31 March 2018 and of the income and expenditure for that year, as well as on the Council's arrangements to secure economy, efficiency and effectiveness. All of the conclusions would assist in any transitional arrangements to a unitary Council(s).

RESOLVED –

That the contents of the external auditors' Audit Plan for 2018 be noted.

5. INTERNAL AUDIT PROGRESS REPORT

The Committee received a progress report on assurance work activity undertaken against the 2017/18 Assurance Plan that had been approved by the Audit Committee in July 2017.

The following matters were highlighted:-

Four reports had been finalised since the previous Committee meeting:

Name of review	*Risk rating*	*Date of final report*	*No of recommendations made*			
			Critical	**High**	**Medium**	**Low**
General Ledger	High	15.3.18	-	1	3	3
Housing Benefits	High	15.3.18	-	2	-	2
Taxi Licensing	Medium	14.3.18	-	-	4	1
Building Control	**Medium**	**14.3.18**	**-**	**-**	**3**	**4**

General Ledger – a number of audit reports in recent years had highlighted issues with the Tech1 finance system including the initial implementation of the system, the design of processes and controls, and poor engagement and speed of response to requests for support. System improvements had also been hindered by internal factors, primarily the level of work required following restructure to remodel the finance structures in line with organisational change and an under resourced team with appropriate expertise. The issues had not significantly impacted on the integrity of the financial accounts, but had resulted in inefficiency, inconsistencies, manual work-arounds and a general lack of reporting to support good financial control.

The report provided a summary of the issues and actions being taken to address them and concluded that whilst progress was being made, a number of concerns remained, mainly around Tech1 consultant capacity and resource to meet the operational and development needs of AVDC. Until significant progress had been made in addressing some long outstanding issues with existing processes and controls, there remained a high risk around the operational performance and functionality of the finance system.

Overall, the report had been classified as High Risk and had identified the following issues with recommended actions:-

- Balances within suspense accounts were not being cleared in a timely manner and there was a lack of clarity around responsibility and documented procedure for completing the process (**Medium**)
- Some interfaces were not reconciled to Tech1 including the Bartec system and some Uniform activity. Issues relating the Northgate/Tech1 interface had been reported in the Housing Benefits internal audit report. A number of the system maps for the interfaces between the Tech1 system and the Council's other sub-systems remain incomplete, with regular reconciliation were not being consistently performed (**Medium**)
- There was insufficient monitoring over Tech1 user accounts and supplier access to the Tech1 system. Staff leaving the Council were not consistently having their user accounts deactivated in a timely manner (**Medium**)
- There was a lack of knowledge and restrictions on who was able to access and make amendments to the chart of accounts (**Low**)
- Insufficient journal narrative and back-up documentation was being recorded for journals on the Tech1 system and there were cases where the same member of staff was preparing and approving the journal for posting (**Low**)
- There was a lack of documented procedure for managing any updates or changes required for the Tech1 system (**Low**).

The restructure over the past year, staff capacity and insufficient consultancy support had impacted on progress in implementing the controls recommended during the 2016/17 audit, and this was reflected in the increase in risk rating compared to the previous year. There remained some fundamental processes and procedures that needed to be addressed.

Housing Benefits – since the prior year high risk report significant improvements had been made to processes and controls. These improvements had led to the Council being paid back subsidy from the DWP as part of their 2016/17 subsidy return, instead of a significant subsidy loss in 2015/16. The key areas of improvement were around increasing the quality checks performed each month and monitoring of monthly subsidy forecasts to quickly identify any financial concerns and take prompt action to rectifying benefit cases. This was supported by full team training.

However, there were still challenges, with the biggest concern being around housing benefit overpayments. Consistent with the national picture, the total estimate of overpayment debt remained high, at £5.9m in February 2018 (2016/17: £6.5m). Of this, £4.12m relates to invoiced overpayment debt and £1.78m was being collected through on-going benefits. Two high risk issues were raised relating to housing benefit overpayments:

- As reported last year, there was a mismatch between housing benefit overpayment data held on Northgate (benefits system) and on Tech1 (finance system). During the year significant resources had been invested to reconcile these two systems and redesign the automated interface processes. Progress had been made to the point where the residual unreconciled balance had been reduced to 0.6% of the debt outstanding, but further work was still needed to automate the matching process and establish ongoing reconciliation procedures. (**High**)
- There were insufficient procedures and resources in place to support effective monitoring and recovery of housing benefit overpayment debt. A business case had recently been approved for additional resource to focus specifically on recovery of housing benefit overpayment. (**High**)

Two low risk issues have been raised around training and more robust performance monitoring.

Taxi Licensing – the taxi licensing service had seen a significant increase in demand for both vehicle and driver licences following the introduction of the Deregulation Act 2015 with driver licence applications increasing five fold and vehicle applications three fold. The organisational restructure had resulted in 50% of the staff within the taxi licensing service moving into roles in other departments within the organisation and a related period of recruitment and staff training.

The auditors had tested a sample of 20 applications and 15 service requests/regulatory actions and sanctions for the period April 2017 to January 2018 and identified the following issues:

- A lack of supporting evidence and records of action was retained to demonstrate whether drivers and vehicles were fit and proper and safeguarding checks were sound for both applicant and service requests (**Medium**)
- Enforcement activities were not documented centrally or monitored and new joint working protocols were not yet working effectively (**Medium**)
- Insufficient management information was collated and/or provided for scrutiny of the performance of Taxi Licensing (**Medium**)
- The sampling had identified 2 instances of errors over penalty points and 2 instances of untimeliness over regulatory actions and sanctions. There had also been an issue identified with licences associated with expired visas however, Management have accepted they could not fully mitigate this risk in the short term (**Medium**)
- Not all Members of the Licensing Committee had been trained and the training provided did not include all of the key elements of safeguarding (**Low**)

Building Control – there was a national shortage of Building Control Inspectors and although the Council's shortfall was being covered by 1.5 FTE consultants, the team was still under resourced. The restructure over the past year had left the staff with changed responsibilities and the new team structures were currently being embedded. Testing had identified the following areas of weakness:-

- There is a lack of documented policies and procedures and inconsistent processes are followed (**Medium**)
- Key Performance Indicators have not been reviewed to establish whether they are still relevant (**Medium**)
- There is no evidence of fees being reviewed at the end of the financial year as per CIPFA Guidance and no evidence that the service is breaking even (**Medium**)
- Building Control Financial Statements, as set out in the CIPFA Local Authority Building Control Accounting Guidance for England and Wales, are not prepared and approved by the Section 151 Officer (**Low**)
- CPD and training maintenance and updates are not evidenced by Managers (**Low**)
- The manual process for matching invoices and payment is inadequate and should be automated. Our testing identified one certificate that was issued without payment of invoice, and one instance where duplicate payments were made (**Low**)

- A Marketing and Income Generation Strategy has not been documented, approved and disseminated (**Low**).

2017/18 Internal Audit Plan work in progress

Members were informed that reviews of Accounts Payable and Payroll had been complete and would be reported to the Audit Committee in June 2018.

An advisory piece of work on Governance and Risk Management would be undertaken in June to review the draft 2017/18 Annual Governance Statement compared to the CIPFA Framework.

Changes to the 2017/18 Internal Audit Plan

The Annual Internal Audit Plan was kept under review to ensure it remained relevant and was flexible in responding to emerging or changing risks. With budget constraints, there was also a need to ensure work was prioritised so that it achieved the greatest value to the organisation. Since the plan had approved in July 2017, changes had been made to the reviews in relation to Accounts Receivable, Tech 1, Budget Management and Aylesbury Vale Estates. Details of this were set out in the Committee report. In addition, the Audit Committee had commissioned an independent review of the Council's governance arrangements for Aylesbury Vale Broadband. This had commenced in January 2018 and was due to report in April/May 2018.

Implementation of agreed audit actions

Internal Audit monitored the implementation of actions and recommendations raised by reviews to ensure that the control weaknesses identified had been satisfactorily addressed. Actions arising from low risk audit findings were followed up by management and reviewed, but not validated by internal audit.

Progress on implementing the prior year actions for General Ledger and Housing Benefits was set out in the reports attached to the agenda. A full report on outstanding actions would be submitted at the June 2018 Audit Committee meeting.

Internal Audit Plan and progress tracker

Progress and changes against the approved 2017/18 Annual Internal Audit Plan were detailed at Appendix 2 to the Committee report.

Members sought further information and were informed:-

General Ledger

- Under resourced team with appropriate expertise (p.71) – a new person would be starting on 9 April who would assist with financial systems work including General Ledger development and the Tech1 system.
- Suspense account not reported monthly (p.76) – Officers acknowledged the importance of implementing monthly reporting on the position of the suspense account to the Strategic Finance Manager to enable better oversight of the clearing of balances.

Housing Benefits

- Changes to the Benefits System – it was explained that the Council operated a discretionary housing benefits fund (£200,000) that could assist people, in certain circumstances, with HB payments. The fund had been fully allocated for this financial year. The Real Time Information (RTI) for PAYE employees that

had been introduced a few years ago had reduced the likelihood that people would be overpaid housing benefits.
Members were informed that the Council had not seen a significant reduction in the housing benefit claims caseload recently which indicated that there were a relatively large number of low paid households in the Vale. However, it was possible that the number of claimants would change when Universal Credit was fully rolled out.

- Backlog of overpayments (manual reconciliation) (p.95) – that the overpayments information related to how overpayments / unpaid balances were recovered by the Council, rather than how the overpayments occurred in the first place. Landlord invoices (e.g. VAHT) could often be more complicated which explained the lower reconciliation rate when compared claimant invoices for individuals.
- Invoiced overpayment debt (p.91) – an explanation was provided on the ongoing reconciliation procedures in relation to collecting overpayments, and in matching HB overpayments data held on Northgate (benefits system) and Tech1 (finance system).
- Loss of HB subsidy (p.92) – it was acknowledged that there had been a loss in the level of subsidy of approximately £91,000, which had been partly due to a software change made by the supplier. This had highlighted a number of issues which had since been addressed.
- Performance Monitoring meetings (p.99) – information was provided on the regular meetings that were held involving the Group Manager and the Assistant Director (Customer Fulfilment) to monitor housing benefit performance. These meetings were held as part of a wider Sector plan, with information/actions then cascaded upwards and reported monthly to the Assistant Director. The Sector was also working to put in place key performance indicators and reporting by exception.

Taxi Licensing

- Retention of evidence and action records (p.112) – that the target date of 30 June 2018 to train Officers and to ensure processes were put in place to make sure sample testing were conducted on at least a quarterly basis were realistic.
- Members expressed some concerns in relation to public safety / safeguarding issues associated with licensing taxi drivers, including the licensing of people who did not live in the Vale, or had a drivers licence issued in another country. The Committee was informed that applicants for a taxi licence had to hold a UK drivers licence or have held an EU drivers licence for a minimum of 18 months to be eligible. The Government had liberalised taxi licensing schemes over the last few years so licensing was not restricted to people who lived in the Vale. However, the Council could introduce a local test for drivers which might discourage some people. This issue was being discussed with local companies. Taxi drivers were also responsible for obtaining a DBS check and providing the Council with a copy of it.
- that the Council was properly resourced (Officer wise) and able to undertake its taxi licensing responsibilities.
- Residual Gaps following the migration process from Uniform to Salesforce (p.111) – that where there were some residual gaps following the migration to Salesforce, manual processes would be put in place to support enhanced data control and to address any resultant risks.

Building Control

- that the Council's Building Control service had operated for a number of years with an experienced small core of Building Control Officers. A number of these people had recently retired or left the Council and efforts were being made to properly document policies and procedures to assist new staff and some temporary contractors who were working in this service area. Throughout this transition period, staff had worked exceptionally hard to maintain a level of service, and general quality of building control work, that customers expected. Member were also informed that private companies also provided building control services so people could choose to use these organisations rather than the Council service.

- Building Regulations Financial Statements (p.13, Supplementary agenda) – it was confirmed that the financial statement relating to the Building Regulations Chargeable and Non-chargeable account would need to be approved by the Section 151 Officer before the Council's financial statements for the year were prepared.

General queries

- Staffing – that the Commercial AVDC programme had led to a major re-organisation of staffing across the organisation. While there were still vacancies in a number of areas, active recruitment was ongoing with a range of strategies to fill them.
- Aylesbury Vale Estates (AVE) – that an internal audit review of the governance arrangements over the investment in AVE would be undertaken in 2018/19, drawing upon the lessons learned from the review of Aylesbury Vale Broadband.
- General Ledger / Housing Benefit comparison – some concerns were expressed that there was a radical difference in implementing actions from last year's reviews in these areas. i.e. very few actions had been implemented following the GL review whilst most actions had been implemented following the HB review.
- Members commented that it would be helpful to get a better understanding of the reasons behind a number of Strategic Development Management Committee meetings being cancelled over the last 6 months.

RESOLVED –

That the progress report be noted.

6. CORPORATE RISK REGISTER

The Audit Committee had a role to monitor the effectiveness of risk management and internal control across the Council. As part of discharging this role the committee was asked to review the Corporate Risk Register (CRR). The CRR provided evidence of a risk aware and risk managed organisation and reflected the risks that were on the current radar for Commercial Board. Some of the risks were not dissimilar to those faced across other local authorities.

Since the previous Audit Committee meeting in January 2018 the following risks had changed:

Risk Reference	Change	Comment
4) Portfolio of commercial (profit generating/cost recovery) activities and opportunities fails to produce the return on investment needed to support a sustainable Council.	**New** (Moderate)	Risk reflects need for continuing focus on income generation to achieve a sustainable Council.
22) Failure to adequately plan for next round of growth following adoption	**New** (Moderate)	Need for continued coordination and communication around

of VALP; including consideration of CaMKOx Corridor and need to meet updated OAN housing targets.		the growth agenda. Consideration of impact of final unitary decision.
19) Modernising Local Government: i) fails to achieve an outcome that addresses community needs ii) disruption to service delivery due to resource detraction from day-job and ongoing uncertainty impacting all areas. Potential impact on retention and recruitment.	**Increased** High → Extreme	"Minded to" decision announced 12 March in support of a single unitary for Bucks; against the 2 unitary proposal preferred by the Districts. Period of uncertainty will have impact across all areas of council; staff morale, recruitment & retention, strategic decision making and deflection of resource to the reorganisation process.
2) Organisational culture does not enable the strategy (Connected Vision, Connected Knowledge & commercial targets). Behaviour framework and Values are not embedded.	**Increased** Moderate → High	Recognised that staff morale (existing and new) may have deteriorated in recent months and the need for increased communication from Directors on vision and direction of the new organisation. Post behavioural assessments, work is needed to embed desired behaviours into cultural norm.
15) Failure to manage a major partnership or a significant council contractor.	**Increased** Moderate to High	Significant performance issues with Street Cleaning contractor. Contractor is working on improvement plan and being closely monitored.
1) Fail to achieve the Medium Term Financial Plan. Annual sector budgets are not delivered.	**Reduced** High to Moderate	Balanced MTFP to 2021/22 approved.
7) Waste Transformation Project fails to deliver commercial, customer, H&S, Environmental objectives.	**Reduced** High to Moderate	Actions are being implemented in line with programme targets.

The Council's management continued to consider the risks arising following the Brexit decision. At this stage there was too much uncertainty about the specific implications on the strategic objectives and day to day operations of the Council to put anything meaningful on the CRR. Members were also informed that a full assessment and rating of Risk 5 (Fail to deliver the Commercial Property Investment Strategy and achieve planned return on investment) had not yet been completed.

Members challenged robustly some of the assumptions made in the CRR, both in specific and general terms.

Members requested further information and were informed:-

(i) by the Corporate Governance Manager that she was endeavouring to obtain Risk Register information from the other Bucks authorities so that a comparison could be made.

(ii) Risk 9 (Failure to recruit Technical Professional Specialists) – that while the Council was still looking to fill some technical specialist vacancies, the number of vacancies had reduced in the last few months. As such, the overall risk rating had been assessed and reduced to Moderate.

(iii) Risk 12 (Fail to plan for a major or large scale incident) – it was agreed that this risk should be divided into separate Emergency Planning and Business Continuity risks.

(iv) Risk 14 (Safeguarding) – **Action Tracker** item to be included relating to training sessions to be provided to elected Members.

(v) Risk 19 (Modernising Local Government) – recent events had contributed to this risk increasing from high to extreme. It was acknowledged that continued communications with staff were essential and that this risk had the potential to impact on all other risks.

(vi) Risk 22 (Failure to adequately plan for next round of growth following adoption of VALP) – it was acknowledged by Officers that information needed to be provided on the controls that had been put in place to reduce/mitigate this risk.

RESOLVED –

That the current position of the Corporate Risk Register be noted.

7. REVIEW OF GENERAL FUND BALANCES 2018-19

The Committee received a report on the risk assessment methodology applied in determining the minimum safe level of General Fund Working Balance used in budget planning. Members were invited to consider this and comment upon the completeness and adequacy of the provision as it would be used in budget planning for 2019/20.

There was a statutory requirement on all Councils to set a balanced budget each year which could legitimately include the use of general uncommitted balances, where the Council agreed that it was appropriate to do so. It was prudent practice for Councils to maintain a General Fund uncommitted working balance against unexpected cost pressures or loss of income in order to ensure that the Council's finances remain balanced at all times.

The level of balance maintained by Aylesbury Vale District Council was reassessed annually and the minimum recommended safe level was then applied in budget setting and planning. The report presented the risk assessment methodology and the risks identified in determining the minimum recommended safe level of £2.0 million used in budget planning for 2019/20.

Members of the Committee considered the methodology, the risks and the mitigations identified and their appropriateness in the context of the budgetary pressures facing the Council. The potential risks arising following the Brexit and potential Unitary decision would continue to be assessed. At this stage there was too much uncertainty about the specific implications on the strategic objectives and day to day operations of the Council to make any financial provision. The assessment was attached as an appendix to the Committee report.

RESOLVED –

That the risk assessment methodology applied in determining the minimum safe level of General Fund Working Balance used in budget planning be noted.

Agenda Item 7

Audit Committee
12 June 2018

REVIEW OF AYLESBURY VALE BROADBAND

1 Purpose

1.1 To consider and approve the accompanying report "Aylesbury Vale Broadband Review" prepared by BDO, a firm of independent auditors.

2. Recommendations

The Committee is recommended to:

2.1 Accept the review has been performed in accordance with the Motion and delivered against all the objectives set out and agreed in the Terms of Reference

2.2 Approve the report and all the recommendations contained in it

2.3 Ensure the recommendations identified in this report are reflected in the Council's "Guide to creation and working with companies in which AVDC has a financial interest"

2.4 Affirm the Council's code of conduct in relation to divulgence of confidential papers

2.5 Invite Cabinet to endorse the recommendations of the Audit Committee

3. Supporting Information

2.1 Audit Committee has previously received reports into the governance arrangements of Aylesbury Vale Broadband (AVB) in March 2017 and September 2017. A number of weaknesses were highlighted and the Committee approved a series of recommendations to address them.

2.2 On 6 December 2017 a Motion (attached below) was agreed at full Council which tasked the Audit Committee with a further detailed audit of the governance arrangements over AVB culminating in the decision to sell AVB assets.

2.3 It was agreed that the audit of AVB be undertaken by the Council's externalised internal audit team (BDO) as they have experience of the governance of company structures.

2.4 The scope of work for the review of AVB was discussed with the Leaders of all political parties on 8 January and subsequently the Terms of Reference were agreed at a meeting of the Audit Committee on 22 January 2018. The Terms of Reference is included as Appendix A of the full report.

2.5 In accordance with the Motion, the review commenced on 31 January. The Motion required for the report to be issued by 30 April 2018. However, there were late requests for interview and additional submissions made during May which, in order to fully consider this information, caused delay to the timing of the report.

2.6 The review has been conducted by Mr Adam Leeder, a Senior Consultant from BDO. Mr Leeder has had free access to all AVB and Council documentation and information throughout the course of the review.

2.7 When the Terms of Reference were agreed, a number of stakeholders were identified to interview as part of the review. All of these were interviewed in addition to other Members and Stakeholders who came forward during the course of work. All of those who requested to provide input to the review were given the opportunity to do so.

2.8 The purpose of the review, as set out in the terms of reference, was to:

- assess the governance arrangements over AVB from the development of the original proposal through to the position culminating in the decision to sell AVB and the conclusion of the sale
- comment on whether these helped the Council secure value for money and deliver the objectives approved by Full Council resulting from its investment in the company
- draw lessons from the Council's governance arrangements for AVB which could be applied to other commercial undertakings

2.9 The report highlights some good practice and goes on to make a series of 22 separate recommendations, drawing upon lessons which can be learned from the Council's experience with AVB, that could be applied to commercial investments in the future.

2.10 The report makes the following recommendations:

When establishing new commercial ventures and overseeing the ongoing business planning cycles (Inception):

- Recommendation 1: Robustly evaluate pilots of new commercial ventures before making further investment;
- Recommendation 2: Sign a Shareholder Agreement requiring permission for wholly or partly owned companies to deviate significantly from agreed business plans;
- Recommendation 3: Improve scrutiny of business plans to ensure they are realistic;
- Recommendation 4: Undertake more thorough market research before entering new markets. Future business plans for commercial ventures should include scenario planning and risk assessments;
- Recommendation 5: Structure the business planning cycle to set a clear vision for the future and assess performance against previous plans;
- Recommendation 6: Ensure commercial ventures have a clear and consistent strategic direction.

When considering governance arrangements for new commercial ventures (Governance):

- Recommendation 7: Avoid placing Cabinet members on the Boards of commercial ventures unless this can be justified on exceptional grounds such as specific sector knowledge;

- Recommendation 8: Institute a conflicts of interest policy for all commercial ventures;

- Recommendation 9: Place a Shareholder Representative on the Board of commercial ventures from the outset to avoid potential conflicts of interest;

- Recommendation 10: Select Board members with sufficient sector knowledge and independent oversight and commission training on Director responsibilities and being an effective Director either shortly before or soon after Directors are appointed

- Recommendation 11: Undertake a capacity, capability and conflicts assessment of potential Directors to avoid high turnover of Board members;

- Recommendation 12: Check Board Members, and key management, have sufficient capacity to discharge their full range of functions, supported by appropriate resilience arrangements;

- Recommendation 13: Keep a clear record of meetings to provide a robust audit trail.

When developing reporting arrangements at Board level, Council level and to customers of future commercial ventures (Reporting):

- Recommendation 14: Clarify from the outset what company information will be reported to Board and invest in capacity to provide this;

- Recommendation 15: Agree the format and data sources of information which will be reviewed at Board meetings;

- Recommendation 16: Reporting to Members needs to be more proactive and reflective of the venture’s current rather than potential future position whilst still respecting the bounds of commercial confidentiality. The Council’s Democratic services team must support this by ensuring that formal minutes of meetings reflect accurately the content of remarks by Members in Council meetings;

- Recommendation 17: If the Council’s wider Members are to have greater oversight of the Council’s commercial ventures, then the confidentiality requirements of ‘yellow papers’ must be respected;

- Recommendation 18: Invest sufficiently in communications and engagement with current and potential customers.

In terms of arrangements for agreement of, and release of funds to new commercial ventures (Investment):

- Recommendation 19: Sign loan agreements prior to loans being issued;

- Recommendation 20: Sign service level agreements to cover Council staff delivering services for a Council-owned commercial venture and charge this time accordingly;

- Recommendation 21: Clarify arrangements from the outset for release of funds from the Council to commercial ventures;

- Recommendation 22: Require Section 151 Officer sign-off for release of funds from the Council to companies owned by the Council.

2.11 The review has given full consideration to whether the Council secured value for money its investment and delivered against the objectives of AVB.

2.12 It notes that the capital receipts the Council will receive from AVB following sale of company assets means that the Council will only have made a small net loss from its investment in the company. In return, AVB was able to provide Fibre to the Premises (FTTP) broadband to 234 properties in rural areas which were not priority areas for connections – either from commercial companies, or national government-backed schemes. In addition, AVB laid a fibre network passing c. 2,000 properties, which will now be developed by Gigaclear, who purchased AVB's assets. Based on this, the report concludes that there is a reasonable case that AVB delivered value for money. However, any final judgement on value for money is subject to the warranties attached to the sale.

2.13 An internal audit of the Council's governance arrangements for Aylesbury Vale Estates is already included in the Internal Audit plan for 2018/19. This will include consideration of whether the recommendations identified in this report have been applied.

4. Reasons for Recommendations

4.1 To deliver the report in accordance with the Motion agreed at full Council on 6 December 2017.

5. Resource Implications

5.1 These are covered in the terms of reference document.

Contact Officer: Kate Mulhearn, Corporate Governance Manager 01296 585724

MOTION

A Notice of Motion in relation to the governance arrangements and operation of Aylesbury Vale Broadband Ltd had been submitted to full Council on 6 December, 2017, at which it had been resolved:

(1) That this Council will honour the commitment given by the Leader of the Council at the General Purposes Committee to review the position culminating in the decision to sell AVB and introduce a suitable mechanism for keeping all Members of the Council informed of the Council's commercial activities.

(2) That the Audit Committee be tasked with a detailed audit of the operation of AVB, as far as practicable within the timescales set out within the original Motion and to keep as much information as is possible in the public domain.

(3) That the audit of AVB be undertaken by the Council's externalised internal audit team (BDO) as they have experience of the governance of company structures.

(4) That a brief for carrying out the review of AVB be agreed by Group Leaders, the Council's Head of Internal Audit, a representative from BDO and the Chairman of the Audit Committee, with Group Leaders receiving a draft of the report prior to its submission to the Audit Committee, any such meetings involving Group Leaders to be chaired by the Deputy Leader of the Council.

(5) That any meeting of the Audit Committee convened to consider the report findings be open to all members of the Council to attend and at the discretion of the Audit Committee Chairman, to participate in the discussions (although they would not be able to vote).

(6) That insofar as the other commercial undertakings of the Council are concerned, reports on their activities be brought forward at regular intervals to the relevant Scrutiny Committee.

With regards to recommendation (2), the timescales set out in the original motion had asked for a review to commence no later than 1 calendar month from the sale of AVB or by 31 January 2018, whichever was sooner, and for it to report no more than 3 months after commencement, i.e. by 30 April 2018.

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AYLESBURY VALE BROADBAND REVIEW

MAY 2018

DRAFT REPORT

CONTENTS

1. EXECUTIVE SUMMARY

Aylesbury Vale District Council (hereafter 'AVDC' or 'the Council') voted to establish Aylesbury Vale Broadband (hereafter 'AVB') in April 2015. AVB was funded with receipts from the New Homes Bonus to provide high-speed broadband in remote parts of the Vale, which would not be reached in the foreseeable future by either commercial providers, or through the national Connected Counties scheme. In total the Council invested £1.44m in a network which connected 234 homes and passed (i.e. the network passed their home but did not connect to the property) circa 2,000 households across eight villages.

This review has considered the inception, governance, reporting and investment arrangements for AVB in order to determine whether: a) the company and the Council, working together, had sufficient arrangements in place to secure value for money from the Council's investment; and b) identify lessons to be learned from AVB and applied to future commercial ventures.

The report has identified some good practice. For example, from a compliance perspective the Council filed appropriate documentation with Companies House when setting up AVB and subsequently changing Directors. Furthermore, the Council/AVB took steps to respond to issues faced as they emerged during the lifespan of AVB. For example:

- Providing greater scrutiny to Business Plan 3 of AVB (although this was never formally presented to Council in part due to challenges from the Board on its content);
- Safeguarding against conflicts of interest by removing the Leader of the Council from the Board of AVB and creating the role of Shareholder Representative to be in line with the Council's formally adopted guidance on company governance;
- Developing a standard formula for reporting to Board, requesting the Managing Director used this, and providing challenge when the data was not forthcoming.

However, there are several opportunities to learn lessons from the Council's experience with AVB that could be applied to commercial investments in the future. Our report makes the following recommendations:

When establishing new commercial ventures and overseeing the ongoing business planning cycles (Inception):

- Recommendation 1: Robustly evaluate pilots of new commercial ventures before making further investment;
- Recommendation 2: Sign a Shareholder Agreement requiring permission for wholly or partly owned companies to deviate significantly from agreed business plans;
- Recommendation 3: Improve scrutiny of business plans to ensure they are realistic;
- Recommendation 4: Undertake more thorough market research before entering new markets. Future business plans for commercial ventures should include scenario planning and risk assessments;
- Recommendation 5: Structure the business planning cycle to set a clear vision for the future and assess performance against previous plans;
- Recommendation 6: Ensure commercial ventures have a clear and consistent strategic direction.

When considering governance arrangements for new commercial ventures (Governance):

- Recommendation 7: Avoid placing Cabinet members on the Boards of commercial ventures unless this can be justified on exceptional grounds such as specific sector knowledge;
- Recommendation 8: Institute a conflicts of interest policy for all commercial ventures;
- Recommendation 9: Place a Shareholder Representative on the Board of commercial ventures from the outset to avoid potential conflicts of interest;
- Recommendation 10: Select Board members with sufficient sector knowledge and independent oversight and commission training on Director responsibilities and being an effective Director either shortly before or soon after Directors are appointed
- Recommendation 11: Undertake a capacity, capability and conflicts assessment of potential Directors to avoid high turnover of Board members;
- Recommendation 12: Check Board Members, and key management, have sufficient capacity to discharge their full range of functions, supported by appropriate resilience arrangements;
- Recommendation 13: Keep a clear record of meetings to provide a robust audit trail.

When developing reporting arrangements at Board level, Council level and to customers of future commercial ventures (Reporting):

- Recommendation 14: Clarify from the outset what company information will be reported to Board and invest in capacity to provide this;
- Recommendation 15: Agree the format and data sources of information which will be reviewed at Board meetings;
- Recommendation 16: Reporting to Members needs to be more proactive and reflective of the venture's current rather than potential future position whilst still respecting the bounds of commercial confidentiality. The Council's Democratic services team must support this by ensuring that formal minutes of meetings reflect accurately the content of remarks by Members in Council meetings;
- Recommendation 17: If the Council's wider Members are to have greater oversight of the Council's commercial ventures, then the confidentiality requirements of 'yellow papers' must be respected;
- Recommendation 18: Invest sufficiently in communications and engagement with current and potential customers.

In terms of arrangements for agreement of, and release of funds to new commercial ventures (Investment):

- Recommendation 19: Sign loan agreements prior to loans being issued;
- Recommendation 20: Sign service level agreements to cover Council staff delivering services for a Council-owned commercial venture and charge this time accordingly;
- Recommendation 21: Clarify arrangements from the outset for release of funds from the Council to commercial ventures;
- Recommendation 22 – Require Section 151 sign-off for release of funds from the Council to companies owned by the Council.

The above points notwithstanding, it should also be noted that the capital receipts the Council will receive from AVB following sale of company assets means that the Council will only have made a small net loss from its investment in the company. In return, AVB was able to provide

Fibre to the Premises (FTTP) broadband to 234 properties in rural areas which were not priority areas for connections – either from commercial companies, or national government-backed schemes. In addition, AVB laid a fibre network passing c. 2,000 properties, which will now be developed by Gigaclear, who purchased AVB’s assets. Any final judgement on value for money is subject to the warranties attached to the sale, the risk for which the Council should quantify as soon as Gigaclear provide more information about the results of the audit of AVB’s historic network. However overall there is a reasonable case that – regardless of the issues highlighted in this report – AVB delivered value for money to the Council.

2. INTRODUCTION

In December 2014, Full Council agreed to commit £1.536 million of New Homes Bonus funding to support the roll-out of superfast broadband across the Aylesbury Vale. The New Homes Bonus is allocated to councils across the UK based on the number of new homes constructed within their boundary. There are no restrictions on how New Homes Bonus money can be spent. The Council decided to use some of its New Homes Bonus to:

- Target areas within Aylesbury Vale, which were not currently in receipt of high-speed broadband and would likely remain out of reach of commercial investment and also, due to their remoteness "may not best be procured through the traditional model previously used in the Connected Counties project". Section 3.1. of the Council report on 4th December 2014 explicitly refers to North Marston and Granborough as two key areas;
- Contribute towards economic growth and improved quality of life for residents in areas of the Vale.

This decision was endorsed by the Council on 4th December 2014 and can therefore be considered a politically agreed priority.

In April 2015, Full Council approved the establishment of Aylesbury Vale Broadband (AVB) as a vehicle to deliver broadband across the Vale. AVB is a limited liability company which is 95% owned by the Council and 5% owned by Ironic Thought. The original purpose of AVB, as set out in its initial business case, was to "create a sustainable business charged with supplying, installing and operating a superfast broadband network using mixed technologies…its primary objective is not for profit but provision of affordable superfast broadband to all".

The day-to-day management of AVB was carried out by a Managing Director who was initially paid as a consultant on a day-rate basis and subsequently (from 2016 until late 2017 when they exited the business) as an established member of staff. AVB had a small staff the composition of which varied over time.

Oversight of AVB was provided by a Board of Directors which included both Members and Officers of the Council, with the Members and Officers changing over time, and the Managing Director. Section 25 of the Articles of Association of the company clarify requirements for Directors. The Company must have four Directors. Three Directors of the company are required to be from Aylesbury Vale District Council, with at least one of these being a Councillor and one being an Officer. The Fourth Director was required to be Andrew Mills, Managing Director of AVB and 100% shareholder of Ironic Thought, which owned a 5% stake in AVB. The Council had oversight of its investment in AVB from August 2016 onwards from a Shareholder Representative (the Leader of the Council) attending Board Meetings. The Council also had oversight of its investment in AVB's activities through scrutiny of the company's business plans at Cabinet, Economic and Business Development and Finance and Services Scrutiny Committees and through Members asking questions at Full Council. The Council's Audit Committee also reviewed the Council's governance arrangements for AVB in March 2017, and then followed up on that review in September 2017.

Funding for AVB was approved by the Council in several tranches:

- April 2015 (£200k for a pilot project in Hogshaw, North Marston and Granborough parishes);
- £550k (October 2015);
- £500k (April 2016);
- Further unspecified additional funds at General Purposes Committee to enable the sale of AVB's assets and to cover residual liabilities of AVB in the event of a shortfall between sale price and net liabilities (November 2017) – these totalled £185k by the point of sale.

Funding for the first three tranches was by a commercial loan, with interest chargeable at 7.5% per annum (the basis of which is covered in the introduction of Section 7), the first loan repayable by 2022 and the second and third in 2023. The fourth tranche of funding was not a loan and was used to enable the sale of AVB's assets to Gigaclear.

The sale of the assets of Aylesbury Vale Broadband to Gigaclear plc completed on 30 December 2017. Gigaclear is the leading provider of full fibre broadband in rural locations and the acquisition will enable Gigaclear to serve the eight villages connected through AVB, as well as expand the ultrafast fibre-to-the-premises network further across Aylesbury Vale.

Following a Motion passed at Full Council on the 6th December 2017 the Council commissioned BDO to:

- Assess the governance arrangements over AVB from the development of the original proposal through to the position culminating in the decision to sell AVB and the conclusion of the sale;
- Comment on whether these helped the Council secure value for money and deliver the objectives approved by Full Council resulting from its investment in the company;
- Draw lessons from the Council's governance arrangements for AVB which could be applied to other commercial undertakings.

This report is structured into five sections – based on the Terms of Reference (Appendix A) agreed by political Group Leaders forum (on 7th January 2018) and the Council's Audit Committee (on 22nd January 2018):

- Value for money – This section considers the amount the Council invested in AVB, amount received for the sale of AVB, and what outputs (i.e. number of connections) the Council received for this investment in comparison with other investment options;
- Inception – This section explores the process the Council followed to set-up AVB, including due diligence of the concept, initial business case and the subsequent business planning cycle;
- Governance – This section reviews the functioning of AVB's Board and management, and how the Council interacted with this;
- Reporting – This section examines various reporting flows between AVB's management, the AVB Board, the wider Council and AVB's customers and potential customers;
- Investment – This section considers the Council's process for loaning funds to AVB to carry out its business activities.

In the introduction of each section we have noted some positive actions the Council/AVB took regarding that particular aspect of the company, before then cataloguing a series of evidence-based lessons which the Council should have regard to when pursuing future commercial investments.

This report is based on BDO's review of documentation provided by both the Council and AVB. BDO also interviewed a range of key stakeholders involved in the management of AVB, oversight of AVB and in receipt of services from AVB. A full list of interviewees is provided in Appendix B. Interviewees included:

- All current and former board members of AVB;
- The former Managing Director of AVB;
- Group Leaders of each of the political parties represented on the Council;
- A sample of other Members;
- Community representatives of areas who were in receipt, or were proposed to be in receipt, of AVB's services;
- Industry representatives from Gigaclear and Village Networks.

As set out in the terms of reference, in order to maintain the boundaries between the Council (as a shareholder) and AVB, this review did not cover the day-to-day operations, decision making and internal processes of AVB. This review focused on AVDC's governance arrangements over its investment in AVB.

3. VALUE FOR MONEY

The question of whether the Council's investment in AVB delivered value for money spans the subsequent sections of this report. Whether the Council received value for money from AVB, and whether the Council acted in a way which made it likely that it would make a return from AVB, are two separate questions. The remainder of this report covers the latter of these questions. This section addresses the first through the following stages:

- Quantifying the Council's investment in AVB and the income the Council received from the sale of AVB;
- Quantifying the outputs from the Council's investment in AVB – i.e. the number of connections made and number of homes 'passed' with fibre broadband;
- Highlighting some caveats which need to be set against any value for money calculation;
- Evaluating the Council's investment in AVB compared to the Council's other alternative investment route for rural broadband such as Buckinghamshire's Connected Counties programme.

Investment in and income received from sale of AVB

Table 1 quantifies the Council's investment in AVB, and the income the Council is due to receive from the sale of AVB.

Table 1- Investment in and returns from AVB

Investment	£
Loans made by AVDC to AVB	1,435,495
Forecast receipts from sale of AVB to Gigaclear	1,250,000
Net profit / (loss)	(185,495)

This suggests that in cash terms the Council made a net loss of £185,495 on its investment in AVB on the 234 Fibre-to-the-Premises (FTTP) connections made to properties in rural parts of the Vale.

The Council's General Purposes Committee reported in November 2017 that AVB's network had passed c. 2,000 homes. Based on this the net cost to the Council per home passed was £92.

Caveats to sale of AVB

There are three caveats to the above return on investment calculation:

- Despite having sold its assets to Gigaclear, AVB – and the Council as shareholder – retains liabilities set out in warranties attached to the sale (set out in more detail below);
- The investment of Council officer time in AVB was significant, particularly in managing the sale of AVB's assets to Gigaclear. Whilst this is only a notional financial cost, the time spent by officers on activities related to AVB meant this was time they were not able to spend on the Council's core business;
- By investing in AVB the Council did not put that money elsewhere, resulting in lost potential investment income. This is calculated by the Council as £9,360 on the basis of the interest rate the Council receives from its other cash investments, which is a reasonable method of calculating interest foregone.

The way in which the sale of AVB to Gigaclear was structured – a series of phased payments held in an Escrow account and conditioned by warranties - means that the Council cannot form a definitive conclusion on its return on investment until the period to which these warranties apply has expired. Warranties are essentially a set of conditions which the assets sold by AVB to Gigaclear must meet in order for Gigaclear to pay AVB the full amount agreed. Where warranties (conditions) are not met, this will reduce the amount paid. Table 2 sets out the phasing of the schedule by which Gigaclear will transfer payment for AVB's assets into an Escrow account.

Table 2 - Schedule of Gigaclear payments to Escrow account for AVB's assets

Payment (£)	Timing of Payment

Payment (£)	Timing of Payment
500,000	30th December 2017
500,000	30th March 2018
250,000	30th December 2018

Gigaclear have made all payments due to the Escrow account to date as at 18 April 2018. As per the agreement Gigaclear have paid £1 million so far, £900k of which has gone into the Escrow account and £100k of which has gone to AVB to contribute towards wind-up costs.

One particular risk of a condition not being met relates to the location of the assets sold to Gigaclear (i.e. that a network of fibre cable is in the ground, in the location described). In the Specific Disclosures Letter, in relation to Clause 6 ('Title of Assets') AVB provided a list of the assets being sold by AVB to Gigaclear. This includes fibre and ducting usage, boundary boxes and cable meters, active equipment, stock inventory, registered intellectual property rights and maps showing the built network in Oving, Granborough, North Marston, Swanbourne, Dunton and Littlecote, Hoggeston, Stewkley and Soulbury.

Gigaclear undertook due diligence of the historic AVB network as part of the sale process. More recently, Gigaclear have commissioned a third party audit of the whole network based on some problems encountered with connecting customers since taking operational control of the network. Given the concerns about the quality of the network Gigaclear has purchased from AVB, the Council should note a contingent liability in its 2017/18 accounts, and then, through working with Gigaclear during its ongoing third party audit, move to quantify any financial impact of this risk in its accounts as soon as possible.

In summary, the Council cannot make a final calculation of its return on investment from AVB until the timeframe when conditions of the sale apply have expired. Certain conditions, such as the nature of the network, could potentially be more at risk of not being met than others. The Council should move to quantify any risk as soon as possible.

Output of AVB

In return for the Council's investment in AVB, the company delivered:

- 234 Fibre to the Premises (FTTP) connections to rural areas which were not included in the roll-out programme for the Connected Counties programme;
- In addition, because AVB's connections are FTTP rather than FTTC (Fibre to the Cabinet) the homes connected receive faster speeds than those properties connected under the Connected Counties programme and the network is less likely to require further investment in the medium to long-term;
- AVB's network passes c. 2,000 homes. This means that further investment from Gigaclear (which purchased AVB's assets) can grow this number of connections.

Alternative investment options - Connected Counties and Village Networks

There were two alternative investment options available when the Council decided to establish AVB – funding Buckinghamshire County Council's Connected Counties programme, or funding a local provider of wireless services – Village Networks – to grow their existing network. This report is not focussed on forming a view of the viability of alternative arrangements, only the one chosen by the Council.

The Council could have invested £1.44 million of the £1.53 million of New Homes Bonus funding it had set aside for broadband investment through the national Connected Counties programme. A report to the Council's General Purposes Committee in November 2017 quoted Connected Counties as having a 'cost per home passed' of £400 compared to AVB's cost per home passed of £750. Note - this £750 is a gross cost per home passed to AVB, rather than the net cost per home passed to the Council mentioned above (£92), which accounts for the income from the sale of AVB. However, it is not possible to make a direct comparison of the value for money from investing in AVB compared to investing in Connected Counties. This is because:

- The two investment options use different technologies. AVB uses FTTP whereas Connected Counties uses FTTC. This means that whilst potentially investment in Connected Counties connects more homes, the speed of connection to those properties, or the extent to which that connection is future-proofed, is lower;

- The nature of the sites where investment took place would be materially different – for example Connected Counties may have focussed on more populous areas where cost per home passed is lower.

A report from Nesta 'Exploring the Costs and Benefits of Fibre to the Home in the UK' (March 2015) provides some potential benchmarks but also highlights the difficulty of comparing one FTTP scheme with another:

- A report by B4RN from 2013 suggests a cost of £1,116 per home based on 100% take-up (although it is unclear whether this is per connection or per home passed);
- A report by the FTTH (Fibre to the Home) Council from 2014 based on Parham village in the UK estimates a cost of £2,000 (although it is unclear whether this is per connection or per home passed);
- A report by Huawei from 2014 estimated a cost of £3,100 per home connected in a rural area;
- A report by US Federal Communications Commission (FCC) in 2013 from the US predicts a cost per home passed of £800, which is expected to be higher for rural areas.

Overall there is a lack of robust benchmark data available to make direct comparisons of AVB's cost per connection against other networks.

In April 2015 the Council also received an approach from local wireless broadband provider Village Networks Ltd, proposing wireless broadband connections to Granborough, North Marston and Hogshaw. This proposed costs of £59,000, delivery within 18 weeks and connection speeds, based on a pilot, of 25 megabits per second. The proposal reviewed did not set out proposed prices to be charged or anticipated numbers of connections. The nature of the proposed commercial arrangements between Village Networks and the Council (i.e. whether the £59,000 would have been grant funded or joint investment in a co-owned business akin to the AVB model) is not explicit however the proposal implies that funding from the Council would have been grant funding as it states "Village Networks has succeeded by using external contributions to fund the capital costs involved". Therefore, due to the different technology proposed and funding model suggested it is difficult to compare the value for money offered by this proposal compared to either the Connected Counties option, or the Council's chosen option of establishing AVB.

The relative merits of AVB, Connected Counties and proposals from local wireless broadband providers such as Village Networks, depend on the extent to which one prioritises remoteness of properties connected; internet speed received by properties connected, or quantity of properties connected. AVB's investment in FTTP technology, arguably, is a more futureproof network given increasing consumer demands for upload and download speeds. Furthermore, as AVB's network was still in the process of development at the point it was sold, it is difficult to benchmark AVB's costs per home connected against other areas. However, viewing AVB's cost per home passed against Connected Counties (slightly higher but for a higher quality of service) and some cost per home passed benchmarking from the US, it would appear that AVB's FTTP network is broadly within the expected range.

Both Connected Counties and AVB required investment, however income from the sale of AVB's assets is almost certainly greater than any clawback mechanism under Connected Counties, resulting, in all likelihood, in a lower net cost overall. Whilst the Connected Counties programme does include a 'clawback' mechanism whereby the Council would receive a certain amount of its initial investment back once a certain number of connections is reached, it is likely that the net expenditure of the Council would have been higher under the Connected Counties programme.

Summary

The Council's capital receipt from the sale of AVB leaves a small net loss when set against the Council's investment in the company – a net spend of £185,495. It was an agreed political priority of the Council (via a resolution on 4 December 2014) to connect homes in rural areas of the Vale to high-speed broadband, which were unlikely to have been connected by alternative programmes (i.e. Connected Counties). Therefore, there is a reasonable case that AVB's connection of 234 homes, with wider potential network coverage of c.2,000 homes, at a cost of £750 per home passed (higher than Connected Counties but also providing a better quality and more future-proofed connection) provides value for money. However, is not possible to take a final view on value for money of the sale of AVB's assets until warranties have expired. It would be prudent for the Council to make an estimate of this risk and make contingency arrangements in the case the Council does not receive the anticipated sale price in full. This should start with noting a contingent liability in the 2017/18 accounts, which should then be quantified as soon as possible thereafter. The extent to which the Council's actions throughout the life of AVB contributed towards delivering value for money, is considered in the remainder of this report.

4. INCEPTION

Introduction

AVB incorporated on 29th June 2015. Prior to this the Council had agreed to invest £1.53 million in broadband across Aylesbury Vale in December 2014 and then to do so by establishing a company – AVB – in April 2015. The Company's first business plan (hereafter 'Business Plan 1') was approved at Council on 15th April 2015 and was predicated on investing between £180k and £200k to deliver a mixed-technology broadband solution (FTTC, FTTP, Wireless) to 210 households across a pilot area of North Marston, Granborough and Hogshaw over the company's first year of operation. Subsequent further investment in AVB was based on a second business plan (hereafter 'Business Plan 2'), approved by Cabinet on 6th September 2016 and reviewed by the Economic and Business Development Scrutiny Committee on 7th September 2016. A draft third business plan was reviewed by the Board but not concluded by the time AVB sold its assets to Gigaclear.

It is positive that both of AVB's adopted business plans were approved by formal committees of the Council and reviewed by a scrutiny committee:

- Business Plan 1 was approved by Cabinet (7th April 2015), and Council (15th April 2015) and there were 6 monthly updates to Economic and Business Development Scrutiny Committee on 15th September 2015 and 15th March 2016;
- Business Plan 2 was approved by Cabinet (6th September 2016) and there was an opportunity for scrutiny by Economic and Business Development Scrutiny Committee on 7th September 2016.

Furthermore, the Council produced required Articles of Association and other incorporation documentation and filed these with Companies House. In addition, the Council undertook due diligence on the proposed Managing Director of AVB, asking for, and receiving references from a range of sources. These references were positive. Furthermore, the Council received external support with preparing documents to establish the company such as the Certificate of Incorporation and Articles of Association, and received advice on issues such as taxation which applied across its commercial ventures.

However, in summary, there are several recommendations which should be implemented as part of the process for approval of future business plans for commercial ventures:

- Robustly evaluate pilots of new commercial ventures before making further investment;
- Sign a Shareholder Agreement requiring permission for wholly or partly owned companies to deviate significantly from agreed business plans;
- Improve scrutiny of business plans to ensure they are realistic;
- Undertake more thorough market research before entering new markets. Future business plans for commercial ventures should include scenario planning and risk assessments;
- Structure the business planning cycle to set a clear vision for the future and assess performance against previous plans;
- Ensure commercial ventures have a clear and consistent strategic direction.

Findings and Recommendations

Both Business Plan 1 and Business Plan 2 were reviewed by Council Committees - Cabinet and Full Council in the case of Business Plan 1, and Cabinet and Economic and Business Development Scrutiny Committee in the case of Business Plan 2. Each Business Plan provided a range of criteria against which they could be judged. These covered:

- Gross and net profit forecasts;
- Forecasts regarding numbers of connections;
- Forecasts regarding numbers and locations of villages to be connected.

However, there were issues with: a) the extent to which the scope and scale of the business plan changed between interactions with the Council; b) the extent to which both Board and Council committees scrutinised business plans when received; and c) the way in which activity and financial performance were reported.

Recommendation 1: Robustly evaluate pilots of new commercial ventures before making further investment

The Council agreed on a pilot for high speed broadband at Cabinet and Full Council in April 2015 – based on Business Plan 1. This set out plans to deliver broadband speeds of 30 megabits per second for a price of £25 per month using a combination of Fibre-to-the-Premises (FTTP), Fibre-to-the-Cabinet (FTTC) and Wireless broadband. Business Plan 1 forecast connecting 210 customers by 'Month 12' of operation for expenditure of £85,000 over the same timeframe.

Some attempt was made to evaluate this pilot. An email sent from the Managing Director to the other Directors of the company on 31st March 2016 includes an assessment of 'Phase 1' of AVB – i.e. the period from AVB receiving funding up until that date. This document is entitled 'Proposal for AVDC Covering Phase 2 Expansion' (hereafter 'Proposal for Phase 2'). Evaluation of the pilot was complicated by the fact that AVB had not delivered what the funding agreed for the pilot had intended. Proposal for Phase 2 itself states "It is important to highlight that to judge the success/failure of AVB's pilot solely on the original business plan is erroneous, especially given the original business plan was based on the use of mixed technologies (predominantly FTTC and wireless) instead of the costlier fibre solution (FTTH) that AVB has actually delivered." This point is covered in more detail under Recommendation 2.

The evaluation was based on the principle of interpreting Month 1 from Business Plan 1 as March 2016. This was on the basis that the switch from a mixed-mode to wholly Fibre-to-the-Premises network had delayed the rate at which customers could be connected. Month 1 in Business Plan 1 stated that AVB would have a monthly income of £1,750 and 50 subscribers. Proposal for Phase 2 states that in March 2016 (what it determines as Month 1) it had 32 subscribers and a monthly revenue of £2,300. On this basis Proposal for Phase 2 determines that the pilot had been a success, stating that "Under the original business plan, it isn't until month 3 when AVB was projected to be generating this level of revenue."

This evaluation was used to justify a further £500,000 of expenditure on AVB. However whilst this was a form of evaluation this was not a sufficiently robust evaluation of AVB's performance to date to justify further investment. We have reached this conclusion for two reasons:

- It does not account for costs: The evaluation overlooks the costs of delivering the customers/revenue achieved. The switch from delivering a mixed-mode network to an exclusively Fibre-to-the-Premises network had resulted in higher capital costs, at least in the short term. The evaluation does not consider at what cost these initial properties had been connected in order to provide a basis on which to determine whether the Council wanted to continue funding expansion of this type of network.

- It provides only a small amount of data: As stated in the Proposal for Phase 2, by the time of this evaluation (31st March 2016), AVB only had 32 subscribers. This is a very small evidence base on which to propose a further £500,000 of funding.

Based on the two points above, it would have been prudent for AVB (and in turn the Council) to wait until it had gathered more evidence about the take-up and costs of a FTTP network before it agreed to further funding. It is accepted that the pilot was difficult to evaluate given the substance of what was being delivered had changed from the plans set out in Business Plan 1, however allowing sufficient time for proper evaluation of the new model before committing further funds could have overcome this in a more robust way. For example, Table 3 sets out AVB's position 12 months after its first connection in October 2015. This suggests that the Council's pilot had not delivered against its stated objectives by the time AVB had been operating a year and the date when a second Business Plan was agreed in September 2016.

Table 3 – Performance against forecast for first year of operation of the pilot

Metric	Forecast (in Business Plan 1)	Actual - October 2016
Connections	210 by 'Month 12' of operation	83 within 12 months of first connection – based on Board report from October 2016
Expenditure by Council	£81,000 by 'Month 12' of operation	£565,995 within 12 months of first connection – based on drawdown of loans from the Council to AVB (note that this does not necessarily equate to AVB's expenditure as AVB could have drawn down against the agreed loan facility but not spent this money on goods, supplies and services)

Recommendation 2: Sign a Shareholder Agreement requiring permission for wholly or partly owned companies to deviate significantly from agreed business plans

As stated above, the pilot agreed for AVB was to develop a mixed-methods network covering FTTP, FTTC and Wireless Broadband. However, AVB's business model quickly shifted to being a 100% FTTP network. This change happened without sufficient further review from the Council and by the time Business Plan 2 was reviewed by the Council, significant investment had already been made. Whilst the Economic and Business Development Scrutiny Committee received a report on progress in March 2016, this Committee did not have the authority to approve or disapprove of the shift on behalf of the Council and the Council lacked a formal mechanism for agreement of material revisions to business plans. We recommend that future commercial ventures have a Shareholder Agreement in place requiring shareholder approval for material changes to business plans – such as a fundamental shift in business model. A draft Shareholder Agreement was developed for AVB it was never signed or adopted.

Both the Council's initial approval of Business Plan 1, and the external advice the Council received in advance of agreeing Business Plan 1, were predicated upon using a range of technologies to provide broadband to homes. This report does not focus on whether switching from a mixed-technology-based model to a FTTP-based model is the 'right' approach. Business Plan 2 explained that this switch was based on FTTP being a more future-proof technology, which provides faster connection speeds. Crucially however, the decision to shift the business model to one based on FTTP connections had significant ramifications – both increasing the capital costs of connecting properties and delaying the rate at which connections would be established, which explains the underperformance against the pilot as set out in Table 3.

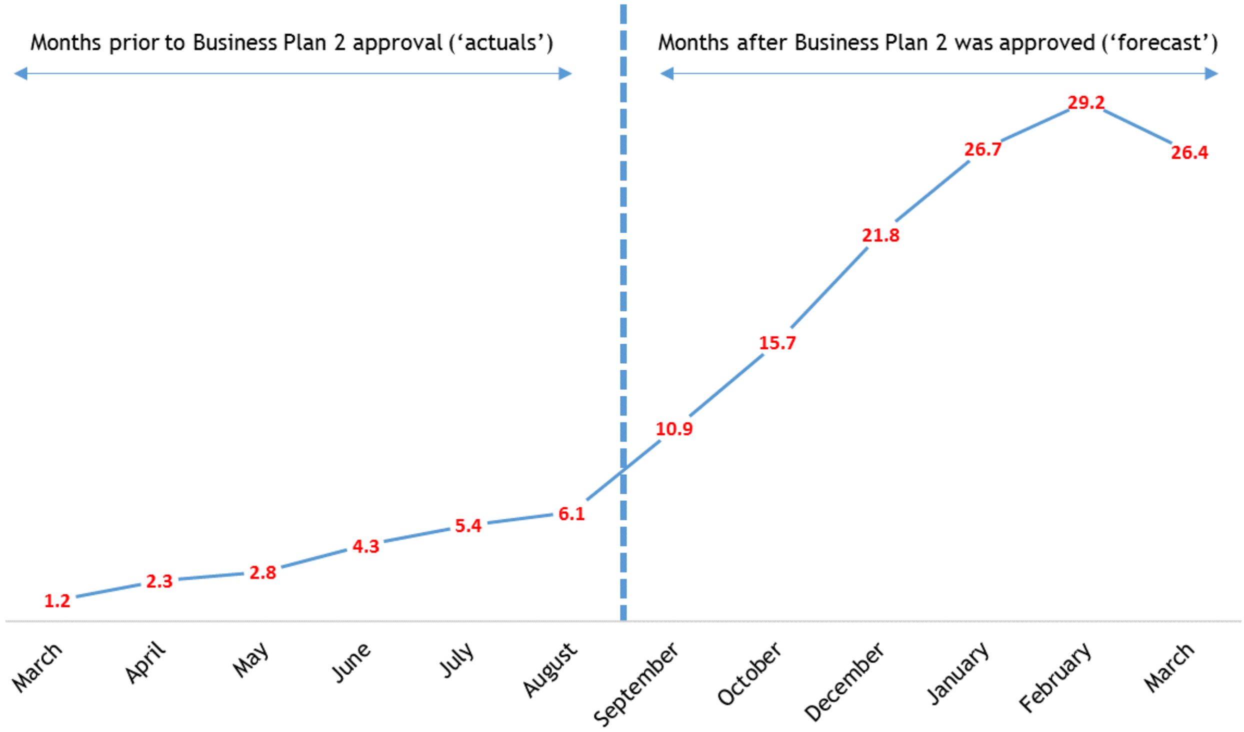
There is also no record that this significant shift in business model was discussed or formally agreed by AVB's Board, although Board members suggested it was discussed.

Recommendation 3: Improve scrutiny of business plans to ensure they are realistic

AVB had three business plans during its lifespan. Business Plan 3 received considerable scrutiny to the extent it was submitted to the Board in June 2017 but not finalised prior to the sale of AVB's assets in December 2017.However, Business Plan 1 and Business Plan 2 were signed off by the AVB Board and Council/Cabinet respectively. Business Plan 2 contains a set of overly ambitious projections and assumptions, which should have received greater scrutiny.

This optimism bias is reflected through analysis of the month-by-month revenue forecasts in Business Plan 2. Some of the months covered by these forecasts were 'actuals' at the point when respective business plans were published whilst others were forecasts. In Business Plan 2 revenue shifts dramatically at the point 'actual' becomes 'forecast' (see Figure 1).

Figure 1 – Actual and forecast monthly revenue (£000) prior to and following approval of Business Plan 2



The rapid month to month increases in revenue in Business Plan 2 are based on the anticipation of a sudden acceleration in customer connections. For example, Business Plan 2 states "By the end of February 2017 we are forecasting 500 customers. This is easily achievable considering we already have approximately 500 customers based on existing customer numbers and deposits received to date." Business Plan 2 was reviewed by Cabinet in September 2016. As of October 2016 a Board Report shows that AVB had only 83 customers. Delivering Business Plan 2 would have required AVB to connect 417 additional customers over a four-month period. Whilst AVB held deposits from 552, households in October 2016 (across Oving, Swanbourne, Soulbury, Drayton Parslow, Stewkley, Whitchurch, Hoggeston and Great Brickhill) experience from the pilot phase in North Marston and Granborough was a clear indicator that the logistical challenges to physically getting these properties connected meant that doing so in such a short timeframe was not feasible. Business Plan 2 (September 2016) did highlight some of these issues but the financial projections were not risk rated accordingly.

A Board report from October 2016 highlighted several issues with expanding the service. For example:

- The civils company used to do 'customer side' installation of FTTH was not prioritising the work;
- Due to issues with suppliers, AVB had to move its 'blowing' work (whereby the cable is pushed through ducting already laid in the ground) in-house;
- The quality of work of the 'splicing' team in Granborough meant unreliable connections and a requirement to find a new supplier;
- AVB was experiencing delays in getting the service to Swanbourne due to having to cross a road and relying on going through a farmer's field.

The combined effect of these logistical challenges should have given the Board of AVB reason to consider whether rapid connection of 417 customers was realistic and viable in just four months.

Recommendation 4: Undertake more thorough market research before entering new markets. Future business plans for commercial ventures should include scenario planning and risk assessments

The Council prepared a paper for General Purposes Committee in November 2017 on the decision to sell AVB's assets to Gigaclear. In that paper, the Council cites unanticipated arrival of competition from Gigaclear as a major driver behind the sale. The General Purposes Committee paper states, "the business plan and financial case for AVB was therefore built on the largely uncontested growth of the AVB network within the Vale and those communities which would always be unviable to larger providers."

The Council's assumption that AVB would face minimal competition, and wider understanding of the market, was based on three foundations:

- No other provider planned to install broadband in the area where AVB planned to work: Analysis was produced by Connected Counties, shared with the Council in September 2014 which suggested no external provider, or the Connected Counties programme had immediate plans to provide services in and around AVB's proposed network footprint for the initial proposed pilot area of North Marston, Granborough and Hogshaw;

- An external review of the viability of establishing a broadband company: An Implementation Report provided by telecommunications consultant Mark Melluish which covered, amongst other areas, "the number of customers required to make a deployment economically viable";
- Input from a representative from the Connected Counties programme.

However, there are questions as to whether the detail contained within these three elements are sufficient to support the quantum of investment the Council made in AVB.

The Council was provided with three scenario maps, each of which showed "a modelled guide as to where further broadband investment may lead to extended superfast broadband coverage." These maps placed areas of Buckinghamshire, including Aylesbury Vale, into one of several categories for superfast broadband deployment:

- Expected completion September 2014;
- Expected completion December 2014;
- Expected completion March 2015;
- Expected completion June 2015;
- Expected completion September 2015;
- Expected completion December 2015;
- Expected completion March 2016;
- Commercially covered;
- Under evaluation;
- Intervention premises addressed by SEP

The difference between scenario maps is the extent and timing to which Aylesbury Vale is covered by superfast broadband – Scenario 1 contains a more cautious assessment, through to Scenario 3 being a more optimistic assessment.

Taking the proposed pilot area of North Marston and Granborough (Hogshaw is not specifically identified on the map), North Marston is in the 'intervention premises addressed by SEP' category for Scenario 1 and 2, and 'Under evaluation' for Scenario 3. Granborough is recorded as 'under evaluation' in all three scenarios.

The Council based their investment in its pilot programme in North Marston and Granborough on these maps. From the evidence the Council was provided with by Connected Counties, who were overseeing supported roll-out of broadband across Buckinghamshire, this is a reasonable assumption, albeit the maps were provided to the Council with the caveat that they were "an indicative view only" and the extent to which the maps are based on BT Openreach's stated investment plans rather than a full Open Market Review is not clear.

The Council's relatively limited investment (£180k to £200k as set out in Business Plan 1) in the 'pilot' phase of AVB was justifiable on the basis of the market research undertaken. The Council had received external input and the investment covered a relatively limited geographical area which, based on up-to-date maps showed a lack of similar broadband coverage from other providers.

However, the Council's subsequent larger investment set out in Business Plan 2 (an initial £500k and then a further £500k) should have been underpinned by more detailed market research.

Firstly the external consultancy advice which had been used to justify the proposed pilot did not support a wholly FTTP network, on the basis that it was "prohibitively expensive". The external advice the Council received recommended a combination of Fixed Wireless and Sub-Loop Unbundling as the most appropriate model for AVB's pilot.

Secondly, by the time AVB published its second business plan (Business Plan 2) in September 2016, the three scenario maps on which the proposed pilot was based were approximately two years old. Each time AVB sought to expand its network it could have undertaken further consultation with Connected Counties to get an update on commercial investment plans for the area, or undertaken an Open Market Review to test the extent to which its expansion plans were likely to overlap with other providers. This did not happen. Furthermore, Gigaclear have publicly stated in an article on the ISP Review website, published on 15th March 2017, that they had responded to an Open Market Review undertaken by Connected Counties in November 2016 stating their intention to expand into Soulbury and other areas of Aylesbury Vale which were in the expansion plans outlined by AVB's second business plan, which was also published in the Autumn of 2016.

Thirdly, the scenario maps on which the Council had based its proposed pilot showed that any network built by AVB was always going to be geographically limited due to the planned investments by Connected Counties (albeit in FTTC rather than FTTP broadband). Taking Scenario 1 for future high-speed broadband investment (the most pessimistic scenario provided by Connected Counties to the Council) there are several areas surrounding the Council's pilot area which did have plans in place for broadband investment. Hoggeston, Stewkley, Winslow, East Claydon, Botolph Claydon, Great Horwood and Little Horwood are all placed in the 'Expected Completion March 2015' category in Scenario 1.

Based on this, the research undertaken by the Council was arguably insufficient to justify the significant investment the Council made in AVB FTTP.

Furthermore, a review of Gigaclear's website shows that between 2012 and 2015, Gigaclear were providing FTTP broadband in the areas surrounding Buckinghamshire – as set out in Table 4. Whilst Gigaclear's expansion into Aylesbury Vale could not be described as inevitable, there was sufficient activity from Gigaclear in surrounding counties that the Council should have foreseen Gigaclear's potential entry into the local broadband market and not approved a business model based on near-monopoly of the local market.

Table 4 – Gigaclear expansion phasing

Location	Date
Rural Oxfordshire	2012
Rural Northamptonshire	2014
Rural Hertfordshire	2015
Rural Essex	2015

In summary, whilst the Council undertook some research into establishing a rural broadband company the level of research undertaken is not commensurate with the scale of investment the Council made. Furthermore, the business plans supporting ongoing investment did not contain any scenario planning or risk assessment about how the arrival of competition might affect that plan or the finances contained within. For example, there was no sensitivity analysis applied to financial projections in either Business Plan 1 or Business Plan 2.

Recommendation 5: Structure the business planning cycle to set a clear vision for the future and assess performance against previous plans

AVB's business planning cycle needed to help the Board and, where relevant the Council, to:

- Agree AVB's clear direction of travel over the coming year;
- Provide a suite of KPIs which allow the Board and the Council to assess performance against that plan;
- Review how AVB performed against last year's plan.

AVB's business plans were not structured in a way that facilitated this scrutiny. None of the three business plans set out specific, measurable, assignable, realistic and time bound (SMART) key performance indicators. Furthermore, whilst business plans contained forecast cash flow, profit and loss and balance sheet, neither Business Plan 2 nor Business Plan 3 contained actual financial information from the last year.

Recommendation 6: Ensure commercial ventures have a clear and consistent strategic direction

Throughout AVB's lifespan, the strategic direction of the company was best expressed in which villages the company would expand its fibre network to and when. At the point at which AVB's assets were sold to Gigaclear those assets extended to eight villages, with the extent to which properties in that village were connected varying. The eight villages are:

- Oving;
- Granborough;
- North Marston;
- Swanbourne;
- Dunton and Littlecote;
- Hoggeston;
- Stewkley;
- Soulbury.

AVB's expansion was based on having sufficient support within a village (evidenced by paid £20 or £50 deposits from potential customers) to warrant expansion. The threshold for deciding to extend AVB's network to a village is described in Business Plan 2 as "30% of households in a nominated village". At the point Business Plan 2 was produced (mid 2016) it describes having "approximately 400 deposits (across five villages) and represents 30% of all households committing to receive our service in each village". However, comparing the number of deposits received as of October 2016, shortly after Business Plan 2 was agreed at Cabinet in September 2016, to the number of households in the parishes in question (Table 5) suggests that AVB had less than 30% deposits in several of the parishes included in its expansion plans.

Table 5 – Percentage of households in villages which had paid a deposit to AVB

Ward	Deposits (Oct 2016)	Households in Parish (2011 census)	Percentage
Oving	63	189	33%
Swanbourne	71	158	45%
Soulbury	57	301	19%
Drayton Parslow	97	241	40%
Stewkley	107	713	15%
Whitchurch	75	378	20%
Hoggeston	18	N/A	
Great Brickhill	64	328	20%

Fewer than 30% of households in Soulbury, Stewkley, Whitchurch and Great Brickhill had paid a deposit. Of these four villages (Soulbury, Stewkley, Whitchurch and Great Brickhill), AVB ultimately extended its network to Soulbury and Stewkley. Whilst the household figures above are based on parish population, not village population, the relative concentration of parish properties within the villages concerned, combined with the extent to which that location was short of the 30% deposit threshold, suggests that even on a 'percent of village' basis the settlements in question may not have reached AVB's prescribed threshold for network extension. Current and former Board members interviewed for this review suggested a range of geographies for what the deposits paid were a percentage of. The main view of current and former Board members was that the geography in question was specific pockets of villages – rather than villages or parishes as a whole. This may be the case but was not clear in the business cases shared with the Council.

In addition, where AVB prescribed the order in which it would grow its network to villages, this was not necessarily followed. For example, Oving – which at October 2016 had the prescribed 30% of households having paid a deposit – had network cable installed in the village but no customers connected at the time of AVB's sale, despite having been described in Business Plan 2 (September 2016) as "next to receive their ultra-fast network".

The AVB Board had no formal process in place for which villages would be connected to their network and in what order. The minutes from AVB Board meetings do not contain sufficient detail to determine whether a detailed and strategic discussion was had on this point. A simple, weighted options appraisal based on the number of households which had paid a deposit, proximity to the existing network, presence of competition and ease of connection (i.e. extent to which physical barriers such as large roads or landowners not willing to let cable cross their land) would have provided the Board with a defensible rationale to justify the cohort of villages included in AVB's expansion plans. Once the cohort was agreed the Board would have benefited from a clear project plan outlining the order in which each village would be connected to the network, and, in turn, homes within that village.

Summary

This section has highlighted several potential lessons from AVB in how the Council generates commercial ideas and then tracks them going forward over successive business planning cycles. The Council needs to ensure it undertakes rigorous initial research into the viability of potential commercial opportunities – both the Officers and Members on the Board of AVB and Cabinet of AVDC approved the company's second business plan, which had a strong optimism bias and no sensitivity analysis or review of potential risks.

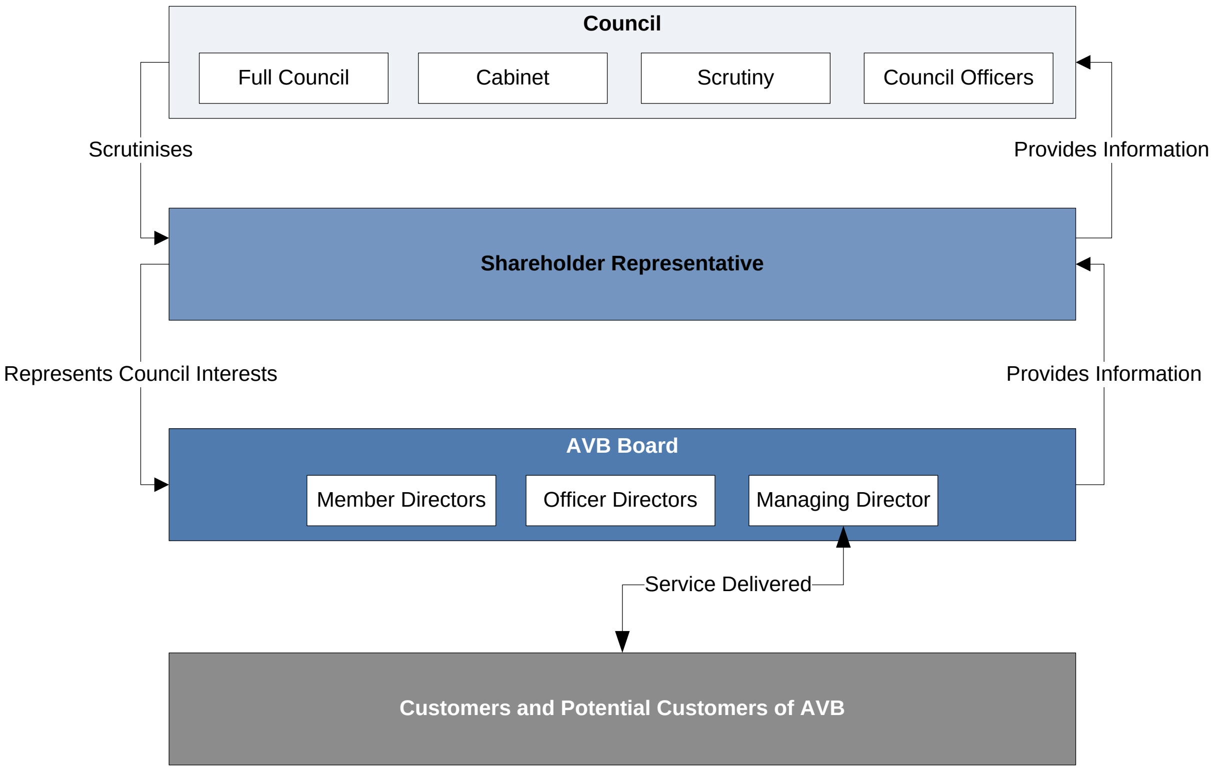
Once it has been agreed that the Council will pursue a commercial opportunity the Council needs to put controls in place so that, as shareholder, it is guaranteed an opportunity for proper scrutiny of material changes to its business plans. Business plans must also be structured in a way to receive proper scrutiny, and then receive that scrutiny in practice, over the course of a business planning cycle. In summary AVB was not short of metrics to be judged against. The main issue was that these metrics did not always guide the business in the year that followed – a fault that sits with the Board. Furthermore, performance against metrics was not scrutinised in sufficient depth – a fault that sits with Cabinet and scrutiny committees which reviewed AVB's progress.

5. GOVERNANCE

Introduction

The governance structure between the Council and AVB is set out in Figure 2. This section considers the extent to which the Council can learn lessons from its governance of AVB and apply this to current and future commercial ventures.

Figure 2 – Governance structure of AVB



From a compliance perspective, AVB notified changes in Directors of the company to Companies House within the appropriate timescales. AVB also responded to the Council's formal adoption of the "Guidance to creation and working with companies in which AVDC has a financial interest" (approved by Council in March 2016), by removing the Leader of the Council from its Board and placing him in the role of Shareholder Representative.

However, this section highlights the following recommendation which should be applied to future commercial ventures based on learning from AVB:

- Avoid placing Cabinet members on the Boards of commercial ventures unless this can be justified on exceptional grounds such as specific sector knowledge;
- Institute a conflicts of interest policy for all commercial ventures;
- Place a Shareholder Representative on the Board of commercial ventures from the outset to avoid potential conflicts of interest;
- Select Board members with sufficient sector knowledge and independent oversight and commission training on Director responsibilities and being an effective Director either shortly before or soon after Directors are appointed
- Undertake a capacity, capability and conflicts assessment of potential Directors to avoid high turnover of Board members;
- Check Board Members, and key management, have sufficient capacity to discharge their full range of functions, supported by appropriate resilience arrangements;
- Keep a clear record of meetings to provide a robust audit trail.

Governance is a broad term. This section focuses exclusively on issues such as the structure and membership of the Board, management of Board meetings, and the Council's interface with that Board – vested in the Shareholder Representative.

Findings and Recommendations

Recommendation 7: Avoid placing Cabinet members on the Boards of commercial ventures unless this can be justified on exceptional grounds such as specific sector knowledge

The Council's guide to establishing and managing commercial ventures specifies that it is inappropriate for roles on company Boards to be held by particular posts. For example:

- Staff working in regulatory roles when companies may be applying for permissions where the Council is the decision maker;
- The Section 151 Officer;
- The Leader of the Council.

AVB acted on this guidance – agreed by Council in March 2016 after AVB had been established – and removed the Leader of the Council from his role as a Director. The Cabinet Member for Resources, Governance and Compliance also resigned from the Board on the 26th April 2017. This was appropriate given his AVDC role overseeing the Council's finances. This left the only Cabinet Member on the Board as the Cabinet Member for Business and Transformation.

The Council should avoid placing any Cabinet members on the Board of commercial ventures in future. There is a danger that a conflict of interest will be perceived, where Members scrutinise a company business plan in their Cabinet role, and have supported that business plan in their Board role. The Council's Code of Conduct does not require Members with this dual role (on Cabinet and on the Board of a Council-owned company) to withdraw from Cabinet discussions about the company in question as–Board members are non-remunerated and therefore this does not constitute a pecuniary interest. It is up to a Member to decide whether to withdraw from voting on such items or to declare a personal interest but stay and participate. Members must consider when taking this decision whether they think a member of the public, knowing all the facts, would think they should declare a personal and prejudicial interest. Given it is Council policy for Cabinet to review company business cases, and the reasonable potential for the public to believe Cabinet members fulfilling such a dual role (company and Cabinet) should declare a personal and prejudicial interest, it would be advisable that Cabinet members do not fulfil dual roles. Imposing this rule would provide greater clarity in what is a grey area and avoid any perception of impropriety.

We have noted that where there are exceptional grounds for including a Cabinet Member on the Board of a company – i.e. specific sector or commercial knowledge – then this could be permitted provided it was expressly explained why the 'no Cabinet Members on Boards' rule was to be breached.

Recommendation 8: Institute a conflicts of interest policy for all commercial ventures

The AVB Board did not have an agreed policy on identifying or dealing with conflicts of interest. All company Directors have a responsibility under Chapter 2 of Part 10 of the Companies Act 2010 to "avoid conflicts, or possible conflicts between interests as a Director and the interests of the company". Having a clear conflict of interest policy in place would provide Directors a framework within which to identify what constitutes a conflict of interest and act accordingly. This is particularly important given the potential for perceived conflicts of interest highlighted above. Whilst a number of Members interviewed for this review highlighted concerns about this point, we did not see any evidence as part of our review to suggest the Council's Conflict of Interest policy was breached in the operation of AVB. In terms of conflicts of interest in the day-to-day operations of AVB, it was difficult to test whether conflicts of interest arose due to poor record keeping of voting on decisions.

Recommendation 9: Place a Shareholder Representative on the Board of commercial ventures from the outset to avoid potential conflicts of interest

On 11th August 2016, the Leader of the Council resigned as a Director of AVB and took up the post of Shareholder Representative. This was to ensure compliance with the Council's formally adopted guidance on company governance which stipulates both that the Leader of the Council should not sit on the Board of Council-owned companies, and that the Council should have a Shareholder Representative in place.

The role of Shareholder Representative is crucial to help both the Council and Board avoid conflicts of interest.

With regard to the Council, Members must have a conduit for asking questions about company progress in formal Council meetings. The role of Shareholder Representative avoids the risk that Councillors who sit on the Board of a commercial venture are answering questions from a perspective of having an interest.

A Shareholder Representative also represents the Council at Board meetings. This frees Officers and Members of the Council, who also sit on company Boards, to focus exclusively on discharging their duties under Section 2, Chapter 10 of the Companies Act, i.e. acting in the best interests of the company.

Recommendation 10: Select Board members with sufficient sector knowledge and independent oversight and commission training on Director responsibilities and being an effective Director either shortly before or soon after Directors are appointed

One issue highlighted through discussion with current and former Board members was that the sector expertise of the Board (i.e. knowledge of installing and managing a FTTP network) resided in one person, the Managing Director of AVB. This meant it was hard for other Board Members to challenge and scrutinise the performance of the company on technical matters such as:

- Whether issues encountered in laying fibre were realistic and could be anticipated;
- Whether costs incurred building the network were appropriate;
- Whether the fibre network would provide a sufficient quality of service;
- Whether take-up projections included in business plans were realistic.

In future commercial ventures the Board should appoint Board members with sufficient sector expertise to provide necessary challenge. Including additional sector-specific expertise on the Board can also provide resilience in the event of the sudden departure of a key member of the management team of a company – as happened when the Managing Director of AVB resigned, leaving Council officers, with no specific sector experience, to take on day-to-day management of the company.

One example of insufficient sector knowledge within the Board relates to the extent to which AVB were compliant with regulations applicable to broadband providers.

For example, the Board was not aware that it was required to put an Alternative Dispute Resolution (ADR) protocol in place. ADR is an arrangement between a broadband provider and an external third party, which is advertised on the broadband provider's website. This allows customers to complain through that third party – with the broadband provider funding investigation of the complaint on a case by case basis.

As a Provider of Electronic Communication Services (PECS) AVB was required to become a member of an Alternative Dispute Resolution scheme under General Condition 14.4 and General Condition 14.5 of Ofcom's regulations – with fines up to 10% of turnover for not doing so.

Ofcom contacted AVB via email on 27th November 2017 requiring that AVB set out their ADR protocols or explain why they were not a member of an ADR scheme by 5pm on December 11th 2017. Having sought external advice, AVB responded to Ofcom on 8th December 2017 stating "I'm sorry that AVB Broadband did not have the necessary information on its website regarding its complaints code of conduct and Alternative Dispute Resolution Scheme, but I'm pleased to say that this has now been rectified."

This is an example whereby a lack of sector knowledge within the Board placed the Council at risk of breaching regulations where a financial penalty could have been incurred – albeit a fairly modest one in this instance given AVB's relatively low turnover.

Stakeholders interviewed for this review have raised concerns that the extent of AVB's regulatory compliance could trigger warranties (conditions which have to be met for AVB to receive the full sale price) included as part of the sale of AVB's assets to Gigaclear.

However, AVB have taken reasonable steps to mitigate this risk as part of the sale agreement which underpins the sale. Correspondence between Ofcom and AVB related to the requirement for corrective action and an ADR protocol to be put in place was included in Schedule 1 of the Specific Disclosures in the sale document to Gigaclear in Section 11.1. This made clear that AVB should have put in place details of a dispute resolution procedure on its website and that Ofcom had contacted AVB to require this was done by 11th December 2017. The Specific Disclosures also make clear that AVB had responded to Ofcom on 8th December confirming that such a policy was now in place. A copy of both aspects of this correspondence were included in Sections 11.1.1 and 11.1.3 of the disclosure bundle respectively.

Future Boards could be further strengthened by the appointment of external non-executive Directors. The Council's own guidance on establishing and running companies suggests, "there should be consideration paid to use of external board members. Ideally companies should not be set up solely with AVDC staff and/or members" in order to "ensure the independent operation of the company". For the majority of decisions made by a Board of a Council-owned company it is not a conflict of interest for company Directors to also be officers of the Council. This is because the interests of the majority shareholder and a company it owns will generally be aligned. However, an external non-executive Director can provide valuable challenge where there are potential tensions between the needs of the shareholder and the needs of the business. Whilst AVB did have an external Board member, the Managing Director, a non-executive external Board member provides additional value as they are aligned to neither the Council nor the business.

The Council should use tools such as an annual Director skills audit, a transparent recruitment process for Directors, and training on responsibilities of Directors, before or shortly after, appointment to Boards. AVB did not take these measures. Whilst the Directors of AVB received training on the 2 November 2017 this was too late, given that the company had been in operation for over two years by this point.

Recommendation 11: Undertake a capacity, capability and conflicts assessment of potential Directors to avoid high turnover of Board members

The Board of a company needs to strike the right balance between continuity and being regularly refreshed. Too little continuity means Board members do not necessarily have sufficient knowledge of the business to provide adequate scrutiny. Too much continuity means the Board is less likely to inject fresh ideas or a fresh perspective on historic business problems.

Table 6 shows the composition of AVB's Board from the creation of the company to the present day. This shows that there was a considerable churn of Board members. This may have affected the quality of scrutiny the Board was able to provide to AVB.

Table 6 – Board composition of AVB over time in calendar years (shading = Board member)

Calendar year	2015		2016				2017				2018
Board Member	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1
Andrew Mills											
Cllr. Janet Blake											
Tracey Aldworth											
Cllr. Neil Blake											
Evelyn Kaluza											
Cllr. Howard Mordue											
Teresa Lane											
Simon Eggleton											

Recommendation 12: Check Board Members, and key management, have sufficient capacity to discharge their full range of functions, supported by appropriate resilience arrangements

Discussion with current and former Board members highlighted significant capacity issues regarding the day-to-day management of AVB. The Managing Director of AVB was responsible for a diverse range of tasks from heavily operational roles such as digging trenches, overseeing installations in customer properties and negotiating with contractors to strategic roles such as producing company business plans and community engagement.

This diversity of responsibilities arguably contributed to the paucity of performance information provided to the Board and inadequate customer engagement highlighted elsewhere in this report. For example, at a Board meeting on 2nd August 2017 the minutes note that the Managing Director could not update the business plan by the 21st August deadline as he needed to oversee manual configuration of routers after a software failure.

There is an opportunity for the Council and associated Boards to learn from this in future. Sufficient capacity needs to be built into business plans to manage a business effectively and fulfil the Council's expectations as shareholder. A challenge for AVB was that its business model rested on being able to provide FTTP technology in remote rural areas because it had lower overheads than larger competitors did. However, AVB was run on such a small budget that it was not possible to perform basic management functions.

Recommendation 13: Keep a clear record of meetings to provide a robust audit trail

We requested minutes of all Board meetings held by AVB. However, the quality of the Board minutes provided varies considerably. Minutes are frequently light on detail, which means it is not possible to form a clear view of the process the Board followed to make a decision, or the extent to which Board meetings were quorate overall or quorate when taking particular decisions

Future Council-owned commercial ventures should ensure that detailed and structured minutes of meetings are kept. Minutes should record and assign key inputs of attendees and provide a formal record of decisions taken. In addition, agenda items should not be tabled 'on the day' but circulated to Board members with sufficient notice in advance of the meeting.

Summary

Experience from AVB provides a range of findings and recommendations for future commercial ventures pursued by the Council. Poor governance significantly contributed to the issues faced by AVB and the fact that key areas of governance were lacking and this underpins wider failings covered elsewhere in this report. A particularly important recommendation is around managing conflicts of interest. A conflict of interest policy, placing a Shareholder Representative on the Board of future commercial ventures from the outset, preventing Cabinet members from holding Board positions, and appointing external non-executive Directors will all provide greater protection in this regard. The Council should also ensure that future commercial ventures include the right range of sector expertise on Boards to provide both challenge to, and provide resilience for, the Business – particularly where the capacity of key individuals is likely to be an issue. Once such a Board is in place future commercial ventures will benefit from greater consistency of Board members and improved systems in place to take and record decisions. This will have the added benefit of providing protection to Board members through presence of a robust audit trail.

6. REPORTING

Introduction

There were numerous reporting lines between AVB, the Council as shareholder, the Council's wider membership and its customers. This section considers each of these reporting lines in turn and identifies where the Council could learn lessons from AVB, which it could apply to future commercial ventures.

There are five findings and recommendations outlined in this section:

- Clarify from the outset what company information will be reported to Board and invest in capacity to provide this;
- Agree the format and data sources of information which will be reviewed at Board meetings;
- Reporting to Members needs to be more proactive and reflective of the venture's current rather than potential future position whilst still respecting the bounds of commercial confidentiality. The Council's Democratic services team must support this by ensuring that formal minutes of meetings reflect accurately the content of remarks by Members in Council meetings;
- If the Council's wider Members are to have greater oversight of the Council's commercial ventures, then the confidentiality requirements of 'yellow papers' must be respected;
- Invest sufficiently in communications and engagement with current and potential customers.

Current and former Board members of AVB, and the Council's Shareholder Representative, acknowledge that reporting is a particular focus area for improvement, based on the Council's experience with AVB. The potential lessons learned, outlined above, attest to this. The lack of robust and regular reporting of information relating to company performance is however inextricably linked to the environment in which the business was operating. A culture of trust must be created to encourage transparency and facilitate the sharing of information about the Council's commercial ventures.

It should be noted that AVB and the Council did take steps to improve the reporting of AVB during its lifespan. For example:

- Following an internal audit review, which covered reporting between AVB and the Council, a standard template for reporting was prepared and sent to the Managing Director for completion – albeit the information was never provided in the agreed format;
- There is evidence – examples of which are provided later in this section – which shows that Board Members and the Council's Shareholder Representative consistently pushed the Managing Director to provide detailed financial and activity data to inform business decisions taken by the Board.

Findings and Recommendations

Recommendation 14: Clarify from the outset what company information will be reported to Board and invest in capacity to provide this

The Council conducted an internal audit of governance arrangements for AVB in March 2017. This concluded that "to date there has been a lack of information shared with the AVDC Shareholder Representative on progress against agreed targets and financial performance compared to forecast. This impedes the Council's ability to perform its own assessment of the risk of the investment and provide transparent reporting to Members." The Council's review recommended that "The Shareholder Representative and AVB Directors should agree the specific AVB quarterly reporting requirements as a priority" Whilst Internal Audit's follow-up review in September 2017 found this recommendation had not been implemented, it did lead to increased interest from the AVB Board in the monitoring information provided by Managing Director to the Board. A review of AVB's Board minutes and supporting emails shows that the Board had insufficient sight of basic management information during AVB's lifespan. For example:

- Board meeting on 26th April 2017 – Councillor Neil Blake "wanted to ensure that we have the information presented in a format that assists the authority to have clear information regarding performance against business plan and this is essential to maintain ongoing support of the venture";

- An action from an AVB Board meeting on 26th April 2017 required the Managing Director to provide an up-to-date business plan including actual results to 31st March 2017. This action was not completed;
- At a Board meeting on 2nd August 2017 –Councillor Neil Blake and Teresa Lane stressed more information was needed on 16/17 actual performance versus plan – including actual connections made and subscription levels, and stated it would be hard to justify further investment without this;
- At a Board meeting on 2nd August 2017 – The Managing Director had indicated that performance information requested from him by email from one of AVB's Board Members had not been provided because the direction to provide this information needed to come from the full Board, not one individual. In response to this, Councillor Janet Blake said that emails sent by Teresa Lane arose from that meeting and were sent on behalf of AVDC as the major shareholder" and therefore the Managing Director should have responded to this request.

The above is far from an exhaustive list. From a review of Board minutes, papers and other documentation it is clear that the Council's Shareholder Representative and AVB Board Members did press the Managing Director (also an AVB Board Member) for required management information, with the intention of sharing appropriate KPIs with the Council. For future commercial ventures, this expectation should be established upfront as a prerequisite for pursuing a commercial venture. AVDC did not do this for AVB. A Shareholder Agreement is the standard place where such provisions would be contained but no Shareholder Agreement was ever signed between AVDC and AVB stipulating what reporting arrangements were required or how success would be determined. At a minimum the Board should receive monthly management accounts showing profit and loss, balance sheet and historic/forecast cash flow. The Board should also receive monthly information on the activity of the business. In the instance of AVB this might have included the number and location of connections, number and location of deposits paid, number and location of properties passed.

Recommendation 15: Agree the format and data sources of information which will be reviewed at Board meetings

In addition to not receiving a sufficient volume of management information on the performance of AVB, information received by the Board contained discrepancies. This reflects the importance of using a Shareholder Agreement to agree not only what will be measured, and how often this will be reported, but also the source(s) of the data shared and how that data will be presented – i.e. showing trend analysis not just a 'snapshot'.

Taking the turnover as an example metric, the turnover for a given month varied between reports received. Table 7 shows a range of months from March 2016 to December 2017. Shaded cells represent what could be perceived as historic data (i.e. the month had occurred prior to the Board being presented with the report in question). The columns represent the following data sources:

- Column 1 – shows monthly revenue included in Business Plan 2 (agreed by Cabinet in September 2016);
- Column 2 – shows a report presented to the Board by the Managing Director in October 2016;
- Column 3 shows a report presented to the Board by the Managing Director in November 2016;
- Column 4 shows monthly revenue included in Business Plan 3 (reviewed by the Board in June 2017)
- Column 5 – shows historic monthly revenue presented to the Board by the Managing Director on 2nd August 2017;

Table 7 – Historic monthly turnover (£) reported to AVB Board

Month	1 Sep 16	2 Oct 16	3 Nov 16	4 Jun 17	5 Aug 17
March 16	1,180				
April 16	2,280	1,696			
May 16	2,750	2,897			
June 16	4,280	5,026			
July 16	5,420	3,829			
August 16	6,120	4,046		1,102	
September 16	10,895	4,722		2,181	2,376
October 16	15,725			2,637	2,602
November 16	21,820		4,846	1,840	3,932

Month	1 Sep 16	2 Oct 16	3 Nov 16	4 Jun 17	5 Aug 17
December 16	26,655			2,689	2,307
January 17	29,249			2,216	4,214
February 17	26,446			3,030	3,609
March 17				4,729	5,028
April 17				3,854	8,642
May 17				9,613	4,688
June 17				8,556	7,139
July 17				11,004	7,101
August 17					6,262
September 17					

Furthermore, it was not possible to take revenue for a given month and match this up with the number of connected customers presented to AVB's Board. A report to AVB Board in November 2016 stated AVB had 88 customers. However, dividing the revenue AVB received from each service line (Superfast Lite, Superfast and Ultrafast) by the prices for each service line (£25, £31 and £112 per month excluding VAT) suggests AVB has fewer customers (42), as shown in Table 8. This was an exercise performed as part of this review rather than formally reported information.

Table 8- Number of AVB customers reported to Board

Service line	Revenue November 2016 (£)	Price (ex VAT) £	Customers
Superfast Lite	235	25	9
Superfast	1,037	31	33
Ultrafast	0	112	0
Connection Fees	2,500	N/A	N/A
Referrals	160	N/A	N/A
TOTAL	3,932		42

Exploration of these figures with the Board suggests that some of the difference between 42 customers and 88 customers may be due to customers being given discounts for allowing cable to run across their property. However, this would mean the majority of AVB's customers were receiving a discounted service. This context was not provided to the Board along with the figure of 88 customers in November 2016.

Finally, the metrics presented to a company board have to be constructed in a meaningful way. The Council was provided with information on percentage take-up to justify the release of funds. In an email to the Council on 28th February 2017, the Managing Director stated:

- AVB's take-up (uptake) across its network was 41%. This was based on dividing the number of customers AVB had by the number of homes its network passed. However, without knowing the number of homes the network passed it was not possible for the Council to work this back to an actual number of paying customers, and therefore could not get a clear picture of revenue in absence of historic financial performance which had not been presented to the Council at this point;
- That AVB was exceeding its objective of "30% take-up in each village" and was "on its way to achieving the objective to increasing take-up to 60% in each village." Use of the term 'village' again causes potential confusion, given that not all of a village would be 'passed' by AVB's network;
- AVB delivered average quarterly growth of 71% in 2016 and year-on-year growth of 800% (comparing 2016 to 2015). However, without the actual numbers of connections these figures are hard to interpret. A 76% increase in connections from one quarter to the next may be a relatively modest number of new connections (and therefore revenue) given the small numbers involved in the calculation.

Trying to tie the reporting received back to AVB's business plan highlights the problem of this percentage based approach. The email to the Council states "in the business plan AVB's objective was to achieve a 30% take-up at launch in each village – its current take-up is in excess of this objective". However, taking the revenue forecast for February 2017 (£26,446) or the customer projections forecast for February 2017 (500) AVB was significantly behind target.

The Council must ensure that future commercial ventures have relevant metrics, which provide a clear picture of the actual performance of the business, the data sources of that information, and protocols for presenting and reporting that information against plan.

Recommendation 16: Reporting to Members needs to be more proactive and reflective of the venture's current rather than potential future position whilst still respecting the bounds of commercial confidentiality. The Council's Democratic services team must support this by ensuring that formal minutes of meetings reflect accurately the content of remarks by Members in Council meetings

It is agreed Council protocol that certain information related to performance of commercial ventures be held by the Board of the company but not shared with the Council's wider membership. This is covered in the formally adopted 'Guide to creation and working with companies in which AVDC has a financial interest' (March 2016). This is standard practice at other Councils BDO has worked with.

However, where Council-owned companies do share information with Members it is important to ensure that this information is accurate and reflective of that venture's current, rather than potential future position. Two instances where this did not occur are shown in Table 9.

Table 9 – Discrepancies between answers to representations from Members and AVB day-to-day operations

Subject	Statement	AVB day-to-day operations
Ofcom licence	"The Aylesbury Vale Broadband Ofcom license…would be circulated" – Cabinet Member for Business Transformation, 22nd July 2015	AVB understands it did not require a licence from Ofcom as it did not provide services over a licensed spectrum. Therefore AVB never had a licence from Ofcom. AVB did have two main regulatory arrangements. Firstly, it voluntarily applied for Code Powers, which Ofcom granted in June 2017. Secondly, albeit belatedly, it established an Alternative Dispute Resolution service (as required by Ofcom under sections 14.4 and 14.5 of its General Conditions) in December 2017.
Connections and revenue	A Business Transformation Update circulated to Councillors on 25th October 2016 stated that AVB "already (had) confirmed customer orders from approx. 600 households, representing income of around £24,500 per month."	A Board report for October 2016 shows that AVB had 83 customer connections, with an additional 552 deposits paid. The same report lists the actual revenue for September 2016 as £4,900. Therefore, whilst the information provided is consistent with a report provided to the Board at the time, ideally some information on current actual position would also have been provided to give a complete picture.

During the course of the review, several Members raised questions about a response from the Leader of the Council (responding at the time in his role as Shareholder Representative) to a question from Councillor Llew Monger on the 26th October 2016. The minutes of this meeting state, "AVB had now connected 600 households and was generating income of £24,500 per month". We reviewed the webcast of this meeting and the actual response to the question was "We've got confirmed orders from almost 600 households. That equates to an income of approximately £24,000 a month, which is quite significant." As with the 'Connections and revenue' row in Table 9 it would have been advisable to caveat this figure with a clearer statement of AVB's current position rather than forecast future position, however the response given (on AVB's forecast future position) was consistent with information presented to the Board at that time.

Similarly, Members consulted for this review raised questions about a response from the Portfolio Holder for Finance, Resources and Compliance to a question from Councillor Llew Monger on the 26th October 2016. The minutes of this meeting state "It was confirmed that AVB had financial management and monitoring arrangements in place such as reporting financial performance information to each Board meeting in a standard accounts format". However the actual response given to the question was "…as far as the management accounts go, at each board meeting figures are submitted for the Directors to have a look at. The format of these figures is of concern. There is a standard format for management accounts which I will be looking into as a recently joined Director of AVB…" This was therefore an accurate reflection of the information available to the Board at that time. The Board had received updates on numbers of connections and deposits paid at its October meeting. The Board was concerned about the format of this information and how it was presented.

Both these instances highlight an issue with accuracy of the minutes – which should not have been signed at the subsequent meeting and entered into the public record. This indicates an important learning point for the Council's Democratic Services team – to ensure that minutes of meetings accurately reflect the content of answers given.

Our interviews with opposition councillors indicate there was some acceptance that granular detail on the day-to-day operations of AVB would not be shared with all Members. However, opposition councillors suggested more proactive sharing of some relevant performance information would have reduced the extent to which AVB became a source of political contention. A useful template for what information could be shared is contained in the Council's formally adopted guide for setting up and managing a commercial venture:

- Current cash flow and profit and loss position;
- Current investment position (including any loan position);
- Income and expenditure forecast for the 4 rolling quarters;
- Current position compared to current business plan;
- Any expected issues reserved in the company Articles of Association that may be need to be reported to AVDC formally over the next 6 months;

- High level reporting of planned strategic marketing activities.

Recommendation 17: If the Council's wider Members are to have greater oversight of the Council's commercial ventures, then the confidentiality requirements of 'yellow papers' must be respected

The above section sets out how the Council could reduce political tension around future commercial ventures – by more proactively sharing accurate information to give the wider membership of the Council confidence that they have sufficient oversight. As AVB is a majority council owned company it is clear that prima facie all members of the Council have a "need to know" the financial position of AVB on the basis that public money is being used. For this to work, the Company must be able to trust that Members who are provided with this information do not do anything to undermine its ability to prosper.

There is evidence that confidential information, which was shared with Councillors during AVB's lifespan, was passed to a competitor of AVB. One example is the State Aid complaint submitted to the European Union by Village Networks (a provider of Wireless Broadband in Aylesbury Vale) includes confidential 'yellow papers' as an appendix.

A review of AVB Board papers, and interviews with stakeholders undertaken for this review, suggests that a lack of confidence that information shared with the Council would be treated with appropriate security was a key driver in stemming the flow of information to the Member's Quarterly Digest, and the Board of AVB.

It is apparent that the hostile environment created by information leaks contributed to several areas which have led to recommendations in this report. In particular:

- Recommendation 5 ('Structure the business planning cycle to set a clear vision for the future and assess performance against previous plans)'. The fact that information on Business Plan 1 had been leaked led to reticence about revealing further management information;
- Recommendation 13 ('Keep a clear record of meetings to provide a robust audit trail'). Concern that further leaks of confidential information could occur was a contributing

factor to the Managing Director providing mainly verbal updates, or tabling management information on the day of board meetings;

- Recommendation 14 ('Clarify from the outset what company information will be reported to the Board and invest in capacity to do this') and Recommendation 15 ('Agree the format and data sources of information which will be reviewed by Board members'). As with Recommendation 5, concerns around further leaks of confidential information were cited as one explanation for this;
- Recommendation 16 ('Reporting to Members needs to be more proactive and reflective of the venture's current rather than potential future position'). It is essential that where Members are given more information on company performance to scrutinise the Council's investment, this information is treated in confidence. The Council Chamber must become a safe space for debate and scrutiny of confidential information, otherwise it is understandable that a commercial venture will not wish to share that information.

To reduce the likelihood of further leaks, and the impact this may have on future commercial ventures, the Council may wish to consider its available range of sanctions which it can use in the event that leaks of confidential information occur.

Recommendation 18: Invest sufficiently in communications and engagement with current and potential customers

AVB was a customer-facing business. A review of AVB's engagement with potential customers suggests that communications and engagement were not well managed, creating ill-feeling between AVB and potential customers. This has knock-on effects for the corporate reputation of the Council.

Communications from AVB to representatives of villages expecting broadband provided dates for laying of broadband cables or connecting properties which were repeatedly missed. For example, with regard to Oving:

- Business Plan 2 (September 2016) committed to Oving being the next village to be connected;
- Civils work commenced in Oving in November 2016 (Business Transformation update to Members);

- The Managing Director of AVB indicated to the Chair of Oving Parish Council that the expectation was to have the first customers connected in April 2017 – however no customers were connected even by the sale of AVB's assets in December 2017;
- Managing Director informs chair of Oving Parish Council that work will stop after the completion of Phase 1 of work in Oving (March 2017) with Phase 2 due to begin in "a few weeks" – however Phase 2 of work was not started by the sale of AVB's assets in December 2017.

This was compounded by AVB's website not being regularly updated and issues with the telephone support service provided to AVB by another of the Council's commercial ventures, Vale Commerce. Where AVB's website was updated, the updates did not always accurately represent the technological sophistication of AVB's network infrastructure. For example, a post on the AVB website (which has subsequently been taken down so the date of which cannot be verified) uses a stock photo of a data centre from the US to announce that AVB's new data centre – located in Swanbourne – was nearly complete. The data centre in the stock photo used arguably would create expectation of a level of sophisticated technology that did not correspond to the reality of AVB's actual data centres in either Swanbourne or North Marston.

Future Council-owned commercial ventures need to ensure they have invested sufficiently in communications platforms to manage customer expectations and avoid 'over promising and under delivering'.

Summary

Good quality management information is the lifeblood of a business. Without it the Board of a business cannot ensure the business gets on the right track, and stays there. AVB had significant issues with reporting at all levels. Information received by Board members was too infrequent. When information was received it did not provide a clear review of the finances or activity of the business, partly because of the type of metrics which were reported (e.g. percentages rather than absolute numbers) and partly because of discrepancies for the same metric between different data sources. Although the Council did offer additional support, this was due in part to the capacity issues faced by the Managing Director (see Governance section).

In future the Council needs to be clear from the outset what monitoring information it requires and, where necessary, equip the company with sufficient resources to do this. AVB's experience also reflects the importance of the Council securing buy-in from all political parties for future commercial ventures. More proactive and transparent reporting of less commercially sensitive information, supplemented by regular informal briefings, would help this. It should be noted that opposition Members interviewed for this review also highlighted a lack of confidence in Board capability as a primary driver of their focus on AVB. The recommendations outlined in the Governance section of this report may therefore also contribute to reducing the extent to which future commercial ventures become politicised. However, transparency is a two-way street. If information is to be shared more proactively and openly with a wider group of Members then all Members must ensure Council meetings are a safe space for robust scrutiny.

7. INVESTMENT

Introduction

The Council formally agreed to loan AVB funding in three tranches: £200k (April 2015); £550K (October 2016); and £500k (April 2016). All loans to AVB were made at an interest rate of 7.5% and supported by loan agreement.

A full breakdown of drawdowns against this loan are set out in Table 10.

Table 10 – Loan transactions between the Council and AVB

Date	Loan (£)	Cumulative Total (£)
13th April 2016	15,000	15,000
13th April 2016	15,000	30,000
12th May 2016	85,000	115,000
30th June 2016	40,000	155,000
12th July 2016	110,995	265,995
12th July 2016	60,000	325,995
28th July 2016	75,000	400,995
16th September 2016	60,000	460,995
30th September 2016	65,000	525,995
21st October 2016	40,000	565,995
15th November 2016	85,000	650,995
7th December 2016	50,000	700,995
14th February 2017	100,000	800,995
7th March 2017	100,000	900,995
23rd March 2017	85,000	985,995
19th April 2017	150,000	1,135,995

Date	Loan (£)	Cumulative Total (£)
25th May 2017	100,000	1,235,995
20th July 2017	108,000	1,343,995
1st November 2017	25,000	1,368,995
15th November 2017	5,000	1,373,995
28th November 2017	1,500	1,375,495
19th December 2017	10,000	1,385,495
3rd January 2018	50,000	1,435,495
TOTAL	1,435,495	1,435,495

This section explores how the Council can learn lessons from how this funding flowed to AVB, which could be applied to future commercial ventures. It highlights the following findings and recommendations which should be applied to future commercial ventures:

- Sign loan agreements prior to loans being issued;
- Sign service level agreements to cover Council staff delivering services for a Council-owned commercial venture and charge this time accordingly;
- Clarify arrangements from the outset for release of funds from the Council to commercial ventures;
- Require Section 151 sign-off for release of funds from the Council to companies owned by the Council.

The Terms of Reference for this review refer to the extent to which loans made by the Council to the company were State Aid compliant. This report does not offer a legal opinion on this matter. We have however confirmed through the review that the Council received legal advice from Freeths Solicitors on the interest rate applied to loans to AVB. It should be noted that an historic State Aid complaint made against the Council by Village Networks is still notionally open - in that, the EU has made no determination as to whether it will investigate this matter.

Findings and Recommendations

Recommendation 19: Sign loan agreements prior to loans being issued

The second and third loan agreement between the Council and AVB in place were not signed until February 2016, by which time the Council had already loaned AVB £800,995. The lack of a signed loan agreement therefore posed a risk to the Council.

Recommendation 20: Sign service level agreements to cover Council staff delivering services for a Council-owned commercial venture and charge this time accordingly

The Council provided a range of support to AVB during its lifespan. For example:

- Support was provided to the Managing Director of AVB on the production of the company's third business plan;
- Vale Commerce (a commercial entity owned by the Council) provided telephone helpdesk support to AVB;
- The Council provided support to process and pay invoices on behalf of AVB.

This investment of time was relatively modest. No service level agreement was signed for support provided to the Managing Director of AVB to produce the third business plan or processing of invoices. The Board of AVB suggested that a service level agreement was signed for the telephony support provided by Vale Commerce, however the Council was unable to provide this evidence as it was inaccessible in the archived folders of a member of staff who has since left the organisation.

AVB did not pay the Council or Vale Commerce for providing this support. A review of Board minutes suggests AVB had intended to pay for telephony support provided by Vale Commerce, but did not due to software issues which affected Vale Commerce's ability to send information from customer calls received through to AVB to action. However, non-payment not only represents a loss to the Council – although that loss is arguably notional given the Council's role as 100% shareholder of Vale Commerce – but also a potential breach of transfer pricing regulations which would require time spent by Council officers on AVB activities to be charged at a small margin (circa 5%).

In not establishing a service level agreement with AVB, the Council was breaching approved 'Guidance to creation and working with companies in which AVDC has a financial interest'. An illustrative example of a service level agreement is provided on Page 27 of this guide. The absence of an SLA meant that there was a lack of clarity about what services would be provided by the Council and what services would be provided by AVB. Furthermore, without an SLA both parties had no assurances around the quality of service one would provide the other. This is why clear SLAs are essential if the Council pursues similar commercial ventures in the future.

Recommendation 21: Clarify arrangements from the outset for release of funds from the Council to commercial ventures

No formal process was in place for request of funds for AVB, or drawdown of funds against the loan agreement. Following work by the Council's Internal Audit team between February 2016 and April 2016, a Council officer prepared a draft approach to requesting drawdown of funds and authorisation payments on the 13th March 2017. By this point, the Council had loaned AVB £900,995. The draft process was due for discussion at the following Board meeting of AVB; however it is unclear from the minutes of this meeting whether or not the updated process was agreed.

The proposed process agreed for drawdown of funding against the loan was:

- Stage 1: The Board agrees the need for funding and any stages to that release of funding;
- Stage 2: The Managing Director sends that request on behalf of AVB to the Shareholder Representative;
- Stage 3: Once the Shareholder Representative authorises the payment then the Managing Director passes the Board-agreed request to the Council's finance team;
- Stage 4: The Council's finance team transfer the agreed level of funds to AVB's account and informs the Managing Director.

It is not immediately clear whether or not this process, whether agreed or not, was followed in practice, however there is evidence both in relation to the March 2017 transaction (see below) that the Shareholder Representative signed off the drawdown in question.

Regardless of the process, the tone of emails received suggests that drawdowns of funds were required because those funds had already been committed – through ordered work which AVB had subsequently been invoiced for. There are three examples of this in relation to AVB's March 2017, April 2017 and July 2017 drawdown against the loan respectively. Whilst AVB was within its rights to ask for this funding (which had been signed off by the Council) the short timescales between drawdown request and required payment of suppliers reduced the Council's ability to apply clauses in the respective loan agreements to withhold funds based on the lack of financial reporting it was receiving (see Reporting section of this report).

March 2017 example

The Managing Director sent an email on 6th March 2017 to Andy Wilkins, Jim Dickson, Joanna Manning, Cllr. Neil Blake, Cllr. Janet Blake and Cllr. Howard Mordue marked 'URGENT: Drawdown and Payment'. This set out a requirement for a drawdown of £100k to cover:

- £23,887 for a civils company;
- £40,000 for another civils company;
- £20,000 for a third civils company;
- £35,000 for fibre;
- £7,000 for a VAT return

Total expenses for March 2017 were £125,887 and the email states that AVB's bank balance was only £17,000. The request was made on the basis that the invoice for £23,887 needed to be paid by tomorrow lunchtime meaning "funds need to be transferred and payments made before then."

April 2017 example

An email request was made by the Managing Director on 11th April 2017 to Carl Dalkin, Cllr. Howard Mordue, Cllr. Janet Blake, Andy Wilkins, Jim Dickson, Joanna Manning, and Cllr. Neil Blake for £150k on the basis of "bills coming through for the additional costs of rapidly escalating work to reach Soulbury". The drawdown of £150k was required to meet the following expenses:

- £100k for civils;
- £35k for additional fibre;
- £25k for ad hoc expenses;
- £25k for mole ploughing;
- £10k for cable blowing.

Total expenses for April 2017 were £195k and the email states that AVB's bank balance was only £18.5k. The email of the 11th April was then followed up on the 12th April, then again on the 18th of April and again on the 19th April on the basis of "having to apologise" to suppliers for the outstanding payment.

July 2017 example

The Managing Director of AVB emailed Board members on the 14th July requesting release of a final £108k which the company had available under its agreed loan facility with the Council. This was required on the basis that suppliers were "anxious to be paid" and the company had outstanding civils bills of £85,000.

Each of these examples suggest that work was being committed in advance of funding and that the Board was not making structured and planned approvals of the loan drawdown. Instead, the Council was being placed in a position where it was required to permit drawdown of funds to pay suppliers which had already carried out work. The absence of a clear and formalised process for releasing funds in a planned way increased the financial risk to the Council.

Recommendation 22 – Require Section 151 sign-off for release of funds from the Council to companies owned by the Council

As stated above, it has not been possible to clarify whether a standard process was put in place to approve drawdown of funds by AVB from the Council, against the agreed loan facility. However even if that process had been put in place and operating effectively, it did not give sufficient power to the Council's Section 151 officer to withhold release of funds as part of their wider fiduciary duty to the authority.

Email correspondence reviewed shows that the Section 151 Officer raised concerns on several occasions about releasing further funds to AVB on the basis that financial and activity information supplied by the company was not sufficient to give confidence to invest further. For example:

- On 7th March 2017 the Section 151 Officer emailed the Leader of the Council, stating: "Following our conversation last week about the lack of visibility over what's been spent so far together with the apparent position whereby the Board has not received any detailed financial reports to date, I have significant concerns about making the next big advance."
- On 20th April 2017 the Section 151 Officer emailed the Managing Director of AVB, stating: "It's no secret that our Audit Committee were critical over the lack of performance information the Council has received to date both as an investor and lender for AVB…therefore as the Council's Chief Financial Officer, making further advances against the loan is awkward when these criticisms still haven't been addressed."

Empowering the Council's Section 151 officer to withhold release of funds as part of their fiduciary duty to the Council could provide further protection to the Council.

Summary

The way in which the Council agreed and released funds to AVB provides several learning points for future commercial ventures. Loans must always be underpinned by signed agreements in advance of funding being released to a Council-owned company. It is appropriate that the Council did not release the totality of its funding to AVB in a single tranche, however for future commercial ventures a sufficiently rigorous process, supported by a strengthened role for the Council's Section 151 officer, should be put in place so that the Board of the company and the Shareholder Representative can make planned, considered and strategic decisions about release of funds.

APPENDIX A: TERMS OF REFERENCE

Background

Aylesbury Vale District Council (AVDC) approved the establishment of Aylesbury Vale Broadband (AVB) at Full Council in April 2015. AVB is a limited liability company which is 95% owned by the Council and 5% owned by Ironic Thought. The original purpose of AVB, as set out in the business case, was to "create a sustainable business charged with supplying, installing and operating a superfast broadband network using mixed technologies…..its primary objective is not for profit but provision of affordable superfast broadband to all".

In December 2014, Full Council agreed to commit £1.536 million of New Homes Bonus funding to support the roll-out of superfast broadband across the District. To date AVB is reported to have drawn down £1.250 million of this through loan agreements. These were approved by Council in April 2015 (£200,000 for a pilot project in Hogshaw, North Marston and Granborough parishes), £550,000 (October 2015) and £500,000 (April 2016). Funding was by a commercial loan, with interest chargeable at 7.5% pa, the first loan repayable by 2022 and the second and third in 2023.

A revised AVB business plan was due to be presented to Cabinet for approval in September 2017, but at that time it was reported that the competitive landscape in which AVB was operating had changed. The revised business plan was deferred for the AVB Board to review future direction in light of competition in the market place.

In November 2017, the General Purpose Committee agreed to move forward with an offer for the acquisition of AVDCs interests in AVB. Additional funds were also approved to provide operational finance up to the conclusion of sale and to cover the residual liabilities of AVB in the event of a shortfall between sale price and net liabilities.

On 30 December 2017, AVB's physical assets were sold to Gigaclear plc, the leading provider of full fibre broadband in rural locations. The terms of the asset sale are covered by a confidentiality agreement designed to protect the ongoing commercial interests of Gigaclear.

AVB remains in the ownership of AVDC. Details of AVB's trading history may no longer be commercially sensitive and all information that has previously been in the possession of AVDC Members and/or Officer Directors will, unless still covered by commercial sensitivity or confidentiality, be freely available to the Audit Committee and Council and will form part of this review.

Good corporate governance is key to maintain the reputation of both the company and AVDC, and overall ensure that the company delivers against the reasons it was created and to its business plan. Guidance on the principles to be applied in the governance arrangements of the Council's owned (part or whole) companies is set out in the document "Guidance to creation and working with companies in which AVDC has a financial interest". This guide was approved by Cabinet in March 2016.

Council scrutinised the investment and progress of AVB through a number of forums:

- Cabinet's sign-off of the original AVB Business Case (March 2015) and revised business plan (September 2016)
- Economy and Business Development Committee (September 2015, March 2016 and September 2016)
- Finance and Services Committee reviewed appointment and remuneration terms of AVB's Managing Director (July 2016)

An internal audit review of the Council's governance arrangements over the investment in AVB was presented to Audit Committee in March 2017 and is publically available. This report noted areas where governance arrangements should be improved and made a series of recommendations. These included but are not limited to:

- Standardisation, consistency and regularity of financial and performance reporting against the approved business plan to enable the Council to more fully assess the risk of its investment in AVB and report to Members
- Clarity on the roles and responsibilities of the Council's existing scrutiny committees in oversight of the Council's commercial ventures
- AVB's concern around the treatment of confidential information

- Greater clarity around recharging costs between the Council and AVB
- Potential for conflicts of interest amongst directors
- Formalisation of arrangements for the draw-down of funds against the Council approved loan facility

The findings were also communicated to the Directors of AVB in a letter (May 2017), along with a proposed set of actions for the consideration of AVB Directors that would support the achievement of the recommendations. A follow up internal audit review was conducted in September 2017. This noted little progress on implementation of the recommendations raised.

The revised AVB business plan was due to be presented to Cabinet for approval in September 2017, but at that time it was reported that the competitive landscape in which AVB was operating had changed. The revised business plan was deferred for the AVB Board to review future direction in light of competition in the market place.

In November 2017, the General Purpose Committee agreed to move forward with an offer for the acquisition of AVDCs interests in AVB. Additional funds were also approved to provide operational finance up to the conclusion of sale and to cover the residual liabilities of AVB in the event of a shortfall between sale price and net liabilities.

The sale of the assets of Aylesbury Vale Broadband to Gigaclear plc completed on 30 December 2017. Gigaclear is the leading provider of full fibre broadband in rural locations and the acquisition will enable Gigaclear to serve the eight villages connected through AVB, as well as expand the ultrafast fibre-to-the-premises network further across Aylesbury Vale.

Purpose

This review is being performed in accordance with the Motion passed at Full Council on 6 December 2017 and will:

- assess the governance arrangements over AVB from the development of the original proposal through to the position culminating in the decision to sell AVB and the conclusion of the sale

- comment on whether these helped the Council secure value for money and deliver the objectives approved by Full Council resulting from its investment in the company
- draw lessons from the Council's governance arrangements for AVB which could be applied to other commercial undertakings

Objectives

This review will assess the adequacy and effectiveness of the following governance arrangements over AVB from the development of the original proposal through to the position culminating in the decision to sell AVB and the conclusion of the sale.

Inception: The Council took appropriate steps to ensure AVB was a sound investment in the run-up to establishing the company

- the original, and subsequent, business cases demonstrate that the Council's investment will deliver value for money and or align with its Strategy
- risks relating to the establishment of the company and the potential for non-delivery against its business plan were fully understood, managed and reported to stakeholders
- the skills and competency of the individuals appointed as directors, initially and subsequently, representatives and business partners were appropriate and directors were aware of their responsibilities
- potential conflicts of interest were identified and managed
- appropriate external advice on the structure of the company or tax legislation was obtained

Governance: As the majority shareholder, the Council had an appropriate level of oversight over the scope and scale of AVB's activities in a way which gave the Council assurance over its investment in AVB but avoided conflicts of interest in the operations of AVB

- a Shareholder Agreement is in place setting out AVB's scope to act independently of the Council and where the Council, as majority shareholder, has a veto over AVB's actions

- the Council's Shareholder Representative was presented with sufficient information at AVB Board Meetings in order to act as a conduit between the Council and the company
- arrangements for accessing and sharing Company information with Directors, Shareholder Representative, Officers, Members and the public were clear, understood and adhered to
- roles and responsibilities where clearly set out, understood and fulfilled for:
    - AVDC officers
    - Council Members
    - Company Directors
- the effectiveness of Council's scrutiny of performance of AVB, including the role of Scrutiny Committees and Cabinet
- the role of the Audit Committee in monitoring the governance and risk management of the investment in AVB
- potential conflicts of interests for all Members, whether Directors of the Company or not, were identified and managed
- procedures were in place to prevent, and if alleged investigate, instances of undue influence being exerted by officers, members, the public or any third party
- the company is operating legally, ethically, in line with the Council's responsibilities and to maintain the reputation of both the company and AVDC

Reporting: The Council received sufficient and regular reporting from AVB to allow it to take a clear view on whether AVB (and therefore the Council's investment) was being well managed, delivering on performance objectives and financial targets according to the business plan, and to ensure transparency to members and the public

- adequate information was provided to members to enable them to effectively scrutinise performance and to support robust consideration of any opportunities or risks, including financial and reputational
- the reporting arrangements for AVB were programmed into the forward plan of relevant committees

Investment: The Council's financial and non-financial input to support AVB were clearly understood and costed

- the terms and purposes of loans made to the company were agreed
- a procedure is in place and adhered to for the drawdown of funds against the loan facility in line with formal agreements
- there was a clear strategy for whether and how the Council will make a return on investment through dividends or repay loans and advances
- there was a process for pricing, monitoring and invoicing for how the company uses Council staff time and Council assets such as IT, property, and equipment

Approach

The review will be undertaken by the Council's internal audit service provider, BDO LLP. BDO have completed similar reviews on behalf of other councils and, as an external organisation, will provide an independent opinion on the Council's governance arrangements over AVB. BDO will adopt the following approach to completing this review:

- Semi-structured interviews with representatives, including but not limited to:
    - Directors who served throughout the duration of AVB's existence
    - the Shareholder Representative(s)
    - the Leader of each political group
    - Chairs of Scrutiny and Audit Committees
    - Officers of the Council who provided key support functions to AVB, such as finance, HR, IT, estates and committee services

- Review of documentation, including but not limited to:
    - Business cases and subsequent business plans
    - Service level agreements between the Council and AVB (if produced)
    - Committee terms of reference and relevant council minutes (e.g. where business case was approved or loan facilities were approved, or reports presented to committees providing an update on company progress)

- Loan agreements
- Evidence of external advice received by the Council on taxation, legal or other matters
- Articles of Association and Shareholder Agreement
- Risk registers
- Declarations of interest
- Committee terms of reference
- Company procedures and policies (particularly those pertaining to managing conflicts of interest)
- Skills audits of Directors; training and support materials provided to Directors
- AVB Board minutes and other relevant company performance and financial information, subject to the exclusions below.

Timescales and budget

This review will commence no later than one calendar month from the sale of AVB. The review will report no more than three months after commencement.

It is anticipated the review will take between 15-18 days to complete at an agreed rate of £1,000 per day. This is in addition to the annual Internal Audit budget.

Reporting

The output of this review will be a report to the Council's Audit Committee. The report will be published in full and be publicly available.

Exclusions

This review will be limited to the Council's relationship with AVB. It will not consider the Council's relationship with other companies the Council owns or part-owns. However, it will identify lessons learned that can be applied to other companies.

In order to maintain the boundaries between the Council (as a shareholder) and AVB, this review will not cover the day-to-day operations, decision making and internal processes of AVB. This review will focus on AVDC's governance arrangements over its investment in AVB.

As AVB is a majority council owned company it is clear that prima facie all members of the Council have a "need to know" the financial position of AVB on the basis that public money is being used. However, any information considered confidential and commercially sensitive to AVB (either by its Directors or its Board) is not disclosable. The list of confidential and commercially sensitive information, whilst not exhaustive, will include any Non-Disclosure Agreements; Asset Purchase Agreement and documents still deemed to be confidential to AVB by the Company's directors.

In addition, where this review pertains to the Council's legal obligations, including, but not limited to State Aid compliance and data protection regulations, this review does not constitute legal advice but checks whether the Council has followed an appropriate process before taking a decision.

APPENDIX B: STAKEHOLDERS INTERVIEWED

The following stakeholders were interviewed as part of this review. These were all individuals identified in the initial Terms of Reference and anybody who made a direct representation to the reviewer:

Name	Role
Cllr. Neil Blake	Leader of Council and Shareholder Representative to AVB
Cllr. Jane Blake	Cabinet Member of AVDC and Board Member of AVB
Cllr. Howard Mordue	Cabinet Member of AVDC and Board Member of AVB
Cllr. Kevin Hewson	Chair Audit Committee of AVDC and Councillor for Quainton Ward
Cllr. Peter Strachan	Chair of Economic and Business Development Committee
Cllr. Anders Christiansen	Leader, Liberal Democrat Group
Cllr. Robin Stutchbury	Leader, Labour Group
Cllr. Peter Cooper	Leader, Independent Group
Cllr. Llew Monger	Liberal Democrat Councillor for Winslow
Cllr. Steven Lambert	Liberal Democrat Councillor for Coldharbour Ward and Buckinghamshire County Councillor for Aylesbury West
Andrew Grant	Chief Executive, AVDC
Andrew Small	Director and Section 151 Officer, AVDC
Tracey Aldworth	Director, AVDC and Board Member of AVB
Teresa Lane	Assistant Director of AVDC and Board Member of AVB
Simon Eggleton	Officer, AVDC and Board Member of AVB
Kate Mulhearn	Corporate Governance Manager, AVDC
Ifty Ali	Lead Legal and Monitoring Officer, AVDC
Andrew Mills	Former Managing Director, AVB and Board Member, AVB
Peter Wright	Chair, Granborough Parish Council
Ambrose McGinn	Chair, Oving Parish Council
Roger Carey	Village Networks
Brett Shepherd	COO, Gigaclear

APPENDIX C: TERMS OF REFERENCE INDEX

The table below runs through each objective in the Terms of Reference and highlights where it has been covered in this report. This is because often lines in the Terms of Reference are covered in multiple sections in the report.

Objective	Sections where this is covered in the report
The original, and subsequent, business cases demonstrate that the Council's investment will deliver value for money and or align with its Strategy	Value for money section
Risks relating to the establishment of the company and the potential for non-delivery against its business plan were fully understood, managed and reported to stakeholders	Recommendations 1, 2, 3, 4, 5 and 6
The skills and competency of the individuals appointed as directors, initially and subsequently, representatives and business partners were appropriate and directors were aware of their responsibilities	Recommendations 10, 11 and 12
Potential conflicts of interest were identified and managed	Recommendations 7, 8 and 9
Appropriate external advice on the structure of the company or tax legislation was obtained	Introduction of 'Inception' section
A Shareholder Agreement is in place setting out AVB's scope to act independently of the Council and where the Council, as majority shareholder, has a veto over AVB's actions	Recommendation 2
The Council's Shareholder Representative was presented with sufficient information at AVB Board Meetings in order to act as a conduit between the Council and the company	Recommendations 14 and 15
Arrangements for accessing and sharing Company information with Directors, Shareholder Representative, Officers, Members and the public were clear, understood and adhered to	Recommendations 14 and 15
Roles and responsibilities where clearly set out, understood and fulfilled for: AVDC officers; Council Members and company Directors	Throughout whole report
The effectiveness of Council's scrutiny of performance of AVB, including the role of Scrutiny Committees and Cabinet	Recommendation 3
The role of the Audit Committee in monitoring the governance and risk management of the investment in AVB	Recommendations 14 and 21
Potential conflicts of interests for all Members, whether Directors of the Company or not, were identified and managed	Recommendations 7, 8 and 9
Procedures were in place to prevent, and if alleged investigate,	Recommendations 6

Objective	Sections where this is covered in the report
instances of undue influence being exerted by officers, members, the public or any third party	and 21
The company is operating legally, ethically, in line with the Council's responsibilities and to maintain the reputation of both the company and AVDC	Recommendation 18 and Introduction to 'Inception' section
Adequate information was provided to members to enable them to effectively scrutinise performance and to support robust consideration of any opportunities or risks, including financial and reputational	Recommendations 14, 15, 16, 17 and 18
The reporting arrangements for AVB were programmed into the forward plan of relevant committees	Recommendation 16
The terms and purposes of loans made to the company were agreed	Recommendation 19
A procedure is in place and adhered to for the drawdown of funds against the loan facility in line with formal agreements	Recommendation 21
There was a clear strategy for whether and how the Council will make a return on investment through dividends or repay loans and advances	Recommendations 3, 4, 5 and 6

FOR MORE INFORMATION:

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