

Committee: **Council**

Date of meeting: **25 January 2024**

Report Subject: **The Future of Silent Valley Waste Services Ltd following the Transfer of Services (and employees) back to the Council**

Portfolio Holder: **Cllr S Thomas – Leader of the Council & Cabinet Member Corporate Overview & Performance**

Cllr H Cunningham – Cabinet Member Place & Environment

Report Submitted by: **Rhian Hayden – Chief Officer Resources**

Reporting Pathway								
Directorate Management Team	Corporate Leadership Team	Portfolio Holder / Chair	Governance Audit Committee	Democratic Services Committee	Scrutiny Committee	Cabinet	Council	Other (please state)
	11/01/24						25/01/24	

1. **Purpose of the Report**
 - 1.1 To consider and agree the future of Silent Valley Waste Services Ltd, a wholly owned company of Blaenau Gwent County Borough Council.

2. **Scope and Background**
 - 2.1 Silent Valley Waste Services Ltd is a wholly owned Company of Blaenau Gwent Count Borough Council. On 1 May 2023, the services and employees of the Company transferred into the Council and subsequently the Company has ceased trading.
 - 2.2 The Council, as the 100% shareholder should now consider the future of the Company and decide whether to dissolve the Company or operate as a Dormant company.
 - 2.3 To Dissolve the Company an application can be made to get the company struck of the Companies Register. A company can be struck off if the following applies:
 - Has not traded or sold off any stock in the last 3 months
 - Has not changed names in the last 3 months
 - Is not threatened with liquidation
 - Has no agreements with creditors, for example a Company Voluntary Arrangement (CVA)
 - 2.4 Alternatively a company may also be dormant if it is no longer trading and does not have any other income. The company remains registered with Companies House but is called dormant since no significant transactions are made. Dormant accounts / returns will continue to be filed annually with Companies House and HM Revenues

and Customs. There could be potential tax benefits if the Council wishes in future to operate like / similar services to those previously undertaken by Silent Valley Waste Services Ltd via the Company.

3. **Options for Recommendation**

To include Recommendation(s) / Endorsement by other groups, e.g. CLT/Committees/Other groups)

3.1 **Option 1 –Silent Valley Waste Services Ltd to be dissolved**

This will result in the Company being struck off the Companies Register.

3.2 **Option 2 – Silent Valley Waste Services Ltd to be made Dormant**

The Company will be retained for 'use' should the Council wish to operate a company providing similar services in future.

This option will require suitable governance arrangements to continue to be in place for the Company and annual accounts and returns to be submitted.

4. **Evidence of how this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan**

4.1 This report supports the Council Corporate Plan high level priority "An ambitious and innovative council delivering quality services at the right time and in the right place".

5. **Implications Against Each Option**

5.1 ***Impact on Budget (short and long term impact)***

5.1.1 **Option 1 –Silent Valley Waste Services Ltd to be dissolved**

To strike off a company from the register the cost of an online application is £8 (£10 for a paper application).

5.1.2 **Option 2 – Silent Valley Waste Services Ltd to be made Dormant**

The current annual cost of maintaining a dormant company is £13 for the Confirmation Statement (Query if there are other submission costs ?) in addition to staff time in preparing submissions for consideration by the Company & the Council.

5.1.3 There could be potential tax benefits if the Council wishes in future to operate like / similar services to those previously undertaken by Silent Valley Waste Services Ltd via the Company.

5.2 ***Risk including Mitigating Actions***

5.2.1 The main risk relating to Option 2 is the failure to submit the required returns to HMRC and Companies House in a timely manner, resulting in financial penalties for the Company and its Director(s).

This will be mitigated by being built into the work plan of the Accountancy Service and annual meetings of the Council and Board of Directors.

5.3 ***Legal***

Expert legal advice has been sought regarding the ongoing requirements of a dormant company.

5.4 **Human Resources**
N/A

6. **Supporting Evidence**

6.1 **Performance Information and Data**

6.1.1 **Option 1 –Silent Valley Waste Services Ltd to be dissolved**

Before formally applying to strike of the Company it must be closed down legally.

This involves:

- Announcing these plans to interested parties and HM Revenue and Customs (HMRC)
- Making sure employees are treated according to the rules
- Dealing with the business & assets

6.1.2 If the decision is taken to dissolve the Company the final statutory accounts and the final Company Tax return will be submitted to HMRC

6.1.3 The Company currently has no employees since they transferred to the Council in May 2023.

6.1.4 The majority of the Company's assets (& liabilities) have already transferred to the Council. The remaining assets – the balance on the Company's bank account and the 1000 ordinary shares will be transferred before the Company is dissolved, any assets remaining with the Company when struck off will go to the Crown (this is likely to be nil).

6.1.5 **Option 2 – Silent Valley Waste Services Ltd to be made Dormant**

The Company would continue to have a legal 'personality' after becoming dormant, retaining its capacity to hold assets, owe liabilities, sue in its own name and be sued. As a consequence governance arrangements in relation to the Company will need to be maintained in order that it can continue to making decisions as the sole shareholder and the Company will continue to need Director(s) to ensure the Company has the ability to deal with any matters that may arise including complying with the various obligations of Directors and shareholders summarised below:-

6.1.6 **Board & Shareholder Meetings**

Dormant companies are required to comply with the Articles of Association in relation to holding Board and shareholder meetings. The Articles of Association of Silent Valley Waste Services Ltd do not require the Company to hold AGMs, Board Meetings or Shareholder meetings, as such regular meetings are unlikely to be required however as and when at certain points decisions are required meetings can be called.

6.1.7 **Annual Accounts**

As with all limited companies, dormant companies continue to have a general obligation to file their annual accounts with the Registrar of Companies (within specific timeframes).

- 6.1.8 A dormant company may however be exempt from the requirement to audit its accounts if certain criteria are satisfied.
The company will qualify for the dormant company exemption if, with regards to its accounts for the financial year in question:
- it has been dormant since the end of the previous financial year
 - it is entitled to prepare its individual accounts in accordance with the small companies regime in relation to that year;
 - it is not required to prepare group accounts for that year
 - it is not an authorised insurance company, a banking company, an e-money issuer, a MiFID investment firm or a UCITS management company, a company that carries on insurance market activity, or a traded company; and
 - during the financial year, no request for an audit has been made by 10% of its members.
- 6.1.9 Based on the above the Company would satisfy the criteria for exemption from audit.
- 6.1.10 If meeting the criteria for exemption to audit the Company can choose to file full (unaudited) accounts or to file reduced information.
- 6.1.11 Since the Company is a subsidiary undertaking of the Council, if the Company has been dormant throughout the whole year and is not a traded company, an authorised insurance company, a banking company, an e-money issuer, a MiFID investment firm, a UCITS management company or a company that carries on insurance market activity or a special register body or an employers' association, the Company may rely on a further exemption from the requirement to prepare and file individual accounts.

The Council as sole shareholder will need to agree to the exemption in respect of each financial year.

- 6.1.12 Reliance on the exemption will generate additional obligations by the Council in its capacity as parent, in particular :
- (a) give a statutory guarantee of the Company's outstanding liabilities in respect of the financial year in which the exemption is relied upon;
 - (b) include the Company in the consolidated accounts drawn up for the financial year in which the exemption is relied upon in accordance with the CA 2006 requirements or UK-adopted international accounting standards; and
 - (c) disclose in the notes to the consolidated accounts that the Company is exempt from the requirement to prepare individual accounts by virtue of section 394A and section 448A of the CA 2006.

The above is relatively straightforward.

6.1.13 It is also important to note that the exemption does not operate to release the directors of the Company from all accounting and filing requirements. Where the Company wishes to rely on the exemption, the directors are required to deliver to the Registrar of Companies within the period for filing the Company's accounts and reports for that year:-

- (a) a written notice of shareholder approval;
- (b) the statement of guarantee by the Council (as parent) referred to above;
- (c) a copy of the consolidated accounts;
- (d) a copy of the auditor's report on those accounts; and
- (e) a copy of the consolidated annual report drawn up by the Council (as parent).

Again the above is relatively straightforward.

6.1.14 **Confirmation Statements**

Submission of Confirmation Statements will continue to be required

6.2 **Expected outcome for the public**

6.2.1 *n/a*

6.3 **Involvement (consultation, engagement, participation)**

6.3.1 If the decision to retain the Company as dormant is made, Accountancy and Legal staff will support both the Council (as shareholders) and the Directors of the Company comply with the annual statutory requirements.

6.4 **Thinking for the Long term (forward planning)**

6.4.1 If the decision to retain the Company as dormant is made, the Company and the Council will be required to consider the statutory requirements and ongoing governance arrangements on at least an annual basis.

6.5 **Preventative focus**

6.5.1 If the decision to retain the Company as dormant is made, Accountancy and Legal staff will support both the Council (as shareholders) and the Directors of the Company to ensure compliance with statutory requirements and prescribed time frames and avoid financial penalties of late filing (for the Company & director(s)).

6.6 **Collaboration / partnership working**
n/a

6.7 **Integration (across service areas)**
N/A

6.8 **Decarbonisation and Reducing Carbon Emissions**
n/a

- 6.9 ***Integrated Impact Assessment*** (the screening template should be completed for any decisions to identify if a full integrated impact assessment (IIA) is needed. A full IIA will need to be completed if the decision is part of the socio-economic duty to consider how the decision might help to reduce the inequalities of outcome associated with socio-economic disadvantage).
n/a

7. **Monitoring Arrangements**

- 7.1 Ongoing requirements during Dormancy will be built into the work programme of the Accountancy Service and will be subject to reports and decisions of both the Company (Board of Directors) and the Council.

8. **Background Documents / Electronic Links**