

Agenda Item No: 9.4 **Report No:** 92/17
Report Title: Joint Venture on Energy & Sustainability
Report To: Cabinet **Date:** 26th June 2017
Cabinet Member: Councillor Linington
Ward(s) Affected: All
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Purpose of Report:

To appoint a preferred bidder to work with Lewes District Council and Eastbourne Borough Council to set up a structure that will deliver a range of projects to meet environmental ambitions, while also ensuring resilience against future energy, food, sustainability and climate change challenges.

Officer Recommendations:

- i. Appoint the Robertson Aecom Consortium as the Preferred Bidder for the Energy & Sustainability Joint Venture and award it a contract to work with Lewes District Council and Eastbourne Borough Council as the private sector partner subject to satisfactory finalisation and completion of the contractual agreements;
- ii. Approve the setting up of a new Joint Board for Energy & Sustainability comprising Lewes District Council and Eastbourne Borough Council members as nominated by the group leaders on a politically proportionate basis. Such Board will be advisory only and substitute members may be drawn from any political group.
- iii. Delegate authority to the Director of Regeneration and Planning to take all necessary operational decisions to implement the Joint Venture in consultation with the Portfolio Holder for Environmental Impact and where appropriate the Chief Finance Officer and Assistant Director – Legal and Democratic Services
- iv. Delegate authority to the Director of Regeneration and Planning to agree the inclusion in the Joint Venture structure of other participants in consultation with the Portfolio Holder for Environmental Impact and where appropriate the Chief Finance Officer and Assistant Director – Legal and Democratic Services;
- v. Delegate authority to the Director of Regeneration and Planning in consultation with the Portfolio Holder for Environmental Impact and where appropriate the

Assistant Director – Legal and Democratic Services to agree the terms of an inter-authority agreement to govern the relationship between Lewes District Council and Eastbourne Borough Council as founding participants under the arrangement.

Reasons for Recommendations

Setting up a Strategic Partnership Agreement (SPA) Joint Venture, is a low cost, low risk option for Lewes District Council, putting the Council in a strong position alongside Eastbourne Borough Council to deliver sustainability ambitions, and invest in significant capital projects with the potential for financial return.

The Joint Venture can be used to accelerate the delivery of projects, which will be completed to agreed timescales, and to a high standard, achieving members' ambitions for their respective areas. Use of a private sector Joint Venture partner will mean that other contractors can be brought into projects without the requirement for a procurement exercise, which can take time and have cost implications, so will have a positive impact on the Councils' budgets.

A local supply chain will be developed and projects with community benefit can be delivered.

As the SPA forms and grows, it will be a platform for advice and capacity building to other local authorities, something the Department for Business, Energy and Industrial Strategy (BEIS) formerly the Department for Energy and Climate Change (DECC) is keen to encourage and see develop.

Information

1.0 Background

- 1.1 Lewes District Council has made a commitment in its Council Plan 2016 – 2020, to having a Clean and Green District. Likewise, Eastbourne Borough Council has made a similar commitment to providing a Quality Environment in its Corporate Plan 2016 – 2020, with this being one of four key themes. Specifically, by 2020, the Councils intend to be moving towards becoming low carbon areas, with a wide range of locally derived environmentally friendly initiatives. Both Councils have ambitious plans to improve their respective areas and deliver significant projects, along with high quality operational services, and so have made a commitment to deliver a shared service.
- 1.2 Both Councils have already given consideration to the Joint Venture, and approved the public procurement process for a private sector partner, with reports going to Eastbourne's Cabinet on 25th May 2016, and Lewes's Cabinet on 4th January 2017.
- 1.3 Within the energy sector there is a combination of increasing prices, future shortage of supply, and the need to reduce carbon emissions. The food chain faces similar future uncertainty with population growth and major global food

regions under threat from extreme weather patterns. There will also be future sustainability issues with transport, waste and water.

- 1.4 Lewes District Council and Eastbourne Borough Council have good track records of investing and delivering in sustainability, and both have invested in solar panels on social housing, reduced their own carbon footprints, invested in green spaces, supported local community groups, and increased the amount of recycling collected. However in the context of future needs, a more ambitious approach to achieve large scale change is required, and a step change in investment, and working alongside commercial organisations for their specialist skills and experience, is required.
- 1.5 This report sets out how the Councils will be taking a leading role to develop projects that both tackle the issues in paragraph 1.3 above, and in addition, provide an income for the Councils. Whilst a key focus of the Joint Venture is to deliver potentially innovative Energy & Sustainability projects, it is of course possible that many capital projects could be delivered through the Joint Venture, provided that they come within the wide scope of the procurement and there is a sufficient element of energy/sustainability.
- 1.6 The Joint Venture is in effect a partnering relationship between the two Councils and the private sector partner, and offers significant advantages to accelerate the delivery of projects, which will be completed to a high standard and will achieve members' ambitions for their respective areas. There would be no requirement for forthcoming projects to be procured, which takes time and can have cost implications, however a request can be made to the private sector partner to run a mini-competition. Another benefit is the facility to bundle up smaller projects, some of which will be of community benefit. Finally, Robertson Aecom will need to build a local supply chain for sub-contractors, and they have made a commitment to holding open days for local suppliers, with a view to setting up the local supply chain.
- 1.7 Given that Lewes District Council and Eastbourne Borough Council are in the process of sharing services, the procurement process has been undertaken on behalf of both councils, as founding partners. The Invitation to Submit Final Tender stage has now concluded, completing the procurement process. The Robertson Aecom Consortium are recommended as the preferred bidder and subject to the approval of both Lewes District Council's Cabinet, and Eastbourne Borough Council's Cabinet at its meeting on 12th July 2017, and satisfactory finalisation of the contractual agreements it is recommended that they are appointed as the Joint Venture partner for a period of 20 years, to provide a long term arrangement for a framework for the right strategic planning and investment to take place. There will also need to be an inter authority agreement between the two councils to govern the occasions when they must make decisions jointly e.g. at the Steering Board where they will have one collective vote.
- 1.8 Officers from the Department for Business Energy, and Industrial Strategy (BEIS) have approved the approach taken by both Councils, and the long-term thinking.

They have also been regularly briefed on the procurement process.

2.0 Robertson Aecom

2.1 The term “Robertson Aecom Consortium” is used in this report to refer to:

- Robertson Capital Projects Limited; and
- Aecom Limited

who will jointly and severally enter the Strategic Partnership Agreement with the Councils.

2.2 Robertson Aecom have been working with the hub programme, which operates across five geographical territories in Scotland. In each, the participating public bodies have teamed up with a private sector partner to form a joint venture company known as a hubCo, to develop and deliver a diverse pipeline of community infrastructure projects. Robertson and AECOM were each appointed to establish and operate one of the hubCo areas. They have over five years of experience and success, helping multiple council areas to deliver a wide range of project types. Particular points to note are:

- The total project value of each hub is just under £500m, which is a combination of schemes that have been delivered, are in development or are under construction;
- A significant proportion of SMEs are involved in delivering contracts;
- New jobs and apprenticeships have been created (in excess of 500);
- There are high satisfaction scores on completed schemes;
- Ability to reinvest any surpluses into developing a new pipeline of projects.

2.3 Robertson’s Hub East Central Scotland projects have included early years, primary schools, secondary schools, health centres, mental health facilities, pharmaceutical manufacturing facilities, community facilities, museums, libraries, leisure facilities, cultural attractions, offices, customer facing facilities, depots, vehicle maintenance facilities, affordable housing and care homes.

2.4 AECOM deliver a full range of technical services to public and private sector bodies throughout the UK. Two relevant projects to the Energy & Sustainability Joint Venture and the delivery of early projects in Eastbourne are the Sussex Coast College at Hastings where they have provided full development services and the Splashpoint in Worthing where they have contributed significant design services in parallel with the development management services.

3.0 Operation of the Joint Venture

3.1 The objectives of the Joint Venture are to:

- Strategically identify, develop and deliver a diverse range of projects and services embedding energy and sustainability;
- Provide an opportunity for public, private and third party organisations to strategically collaborate, plan and deliver improved aggregated outcomes;
- Provide a tool that will deliver major capital projects to budget and to a high standard;

- Support local businesses and the community through long-term needs review and investment planning;
- Create low carbon sustainable communities.

3.2 There are a number of background documents that support this report, that help to explain how the Joint Venture might work operationally and the different processes that are involved, including how other public bodies and organisations can access the Joint Venture. These are listed below along with a short summary about each one:

- i. **Joint Venture Toolkit** – a guide to the key processes and how projects can be delivered;
- ii. **Q&A Briefing Document** – answers key questions on Scope, Governance, Finance, and Delivery;
- iii. **Governance Method Statement** - further detail on how the Council and private sector partners will operate the Joint Venture;
- iv. **Stage 0 Method Statement** - how sites can be taken from concept and vision to workable or ‘qualifying’ projects;
- v. **Project Development Method Statement** – how qualifying projects can be taken forward to delivery;
- vi. **Engagement Method Statement** – how the community and other stakeholders will be engaged.

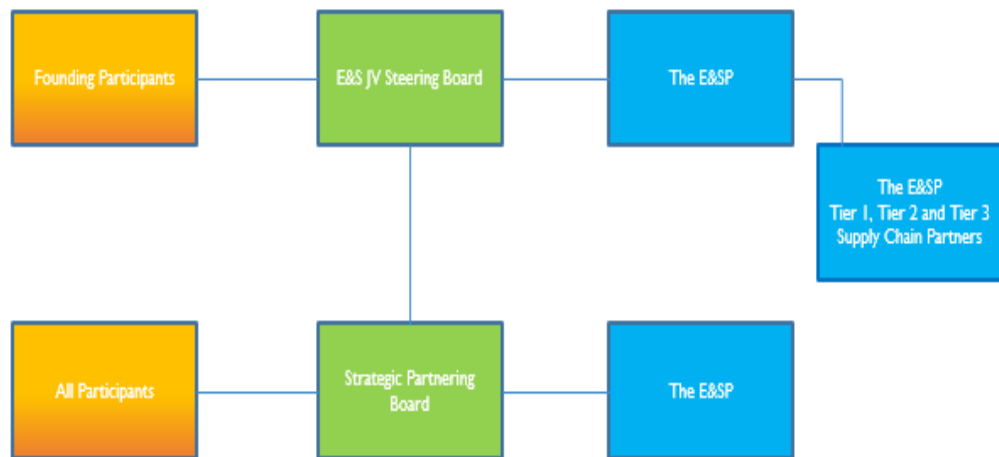
4.0 Governance

4.1 The governance arrangements are explained in detail in the Governance Method Statement, but in summary, the Councils as founding partners will be able to:

- Recommend which of their own projects to develop and will, alongside the joint venture partner, approve the project delivery plan, which may include projects put forward by other public sector bodies;
- With the joint venture partner, decide to allow access to other participants (other local authorities and public bodies) to use the joint venture, and agree the terms on which they do so;
- Cancel or reject a project proposal at various gateways (although it should be noted that cancellation or rejection for certain reasons can result in liability for aborted costs, and where a final approval has been given to a project, potentially loss of profits);
- Invest in projects which generate a financial return.

A Carbon Reduction Board has operated in Eastbourne for some years, attended by relevant Portfolio Holders and senior officers. It is proposed to extend this and create an Eastbourne/Lewes Joint Board for Energy and Sustainability to scrutinise and review all projects prior to Cabinet consideration. All projects will be reviewed by this Board prior to any Cabinet decisions to proceed, so members will be involved at each stage of the project gateway process. The community will be consulted (as appropriate) before any project is approved and funding given.

4.2 A diagram setting out Project Governance is shown below.



The Joint Venture consists of 3 parts as shown by the coloured boxes above:

Yellow area (public sector)

The founding participants are Lewes and Eastbourne councils.

All participants will be Lewes and Eastbourne councils and any other public sector body that joins the Joint Venture.

Green area (public and private sector)

The role of the Energy & Sustainability Joint Venture (E & S JV) Steering Board is oversight and accountability review, strategic leadership, strategic planning and Stage 0 Overview.

The Strategic Partnering Board oversees the work of the E & SP (see below). Its role is guidance, performance review, scrutiny, strategic engagement and alignment of priorities.

Blue area (private sector)

The E & SP is the Energy and Sustainability Partner and comprises Robertson Aecom, and their supply chain partners.

Tier 1 Supply Chain Partners - the Contractor or Service Provider

Tier 2 Supply Chain Partners - Consultant or Single service provider

Tier 3 Supply Chain Partners - SME or service specialist

5.0 Identifying the pipeline

5.1 Once appointed, the private sector partner will work with the two Councils to examine our investment pipeline. Once established the private sector partner will commence a ‘100 day plan’ which will scope out in more detail the potential pipeline for the next five to ten years.

5.2 Within the 100-day plan all the key themes (energy, food, transport, water waste, and climate resilience) will be mapped onto the Geographic Information System

(GIS), which will allow the Councils to take a holistic master-view of regeneration. All sites would be ranked and prioritised and aligned with the JV Project Approval Process, which closely follows the RIBA stages. This process will build in the appropriate Cabinet approvals, and will involve workshops and a wider set of stakeholders.

5.3 The Councils can choose which projects are included in the Joint Venture, and may not want to use the Joint Venture for schemes that are already underway, or for future projects. If it looks like the initial potential pipeline is small in the Eastbourne/Lewes Joint Venture Area, then the private sector partner will work with other Participants in the Joint Venture Core Area of Kent, Surrey, Brighton & Hove, East Sussex and West Sussex, and their supply chain of contractors, to develop a larger project pipeline. To ensure all costs are recovered a notional first 5 year minimum pipeline scenario would be in the region of £175m - £185m, approximately £35m a year.

5.4 When either Council wants to consider a project, a project approval process will be followed, with six steps outlined below

E&S JV Stage	Summary	Key Outputs
Pre-Stage 0	Site Listing	<ul style="list-style-type: none"> Internally the Council agrees which sites can be considered by the JV Part 1 list created, which will require Cabinet approval
Stage 0	Strategic Definition	<ul style="list-style-type: none"> Scope out all of the Part 1 sites Prioritisation and classification of potential projects
Stage 1	Preparation & Brief	<ul style="list-style-type: none"> Develop scope of potential projects including outline delivery programme, project requirements, planning requirements and affordability cap Agree which sites can be taken forward as Qualifying Projects (Part 2 projects) which will require Cabinet approval Submit new project requests
Stage 2	Concept Design	<ul style="list-style-type: none"> Agree affordability cap, comparators, and benchmarks Price cap adjustments Options appraisal Initial design and feasibility Develop preferred option

		<ul style="list-style-type: none"> • VfM assessment • Guaranteed maximum price
Stage 3 & 4	Developed and Technical Design	<ul style="list-style-type: none"> • Develop Design • Pre-planning consultation • Confirm VfM • Market test construction packages • Finalisation of price
Contract Finalisation	Completion of contract	<ul style="list-style-type: none"> • Resolve residual risks • Technical Project Agreement • Financial Close

At each stage the level of work increases and will be paid for through the Ongoing Partnering Services (OPS) OPS and Transformational Partnering Services (TPS) fees (see paragraph 6.3 of this report for definitions of these fees). Prior to each stage commencing the criteria for the next stage is agreed and if these criteria are delivered, it is expected that the costs will be paid through the OPS & TPS fees. If the Council decides to withdraw at any stage and the criteria has been that met, the Council will be expected to pay the costs, and the amount will depend on the type and size of the project. At the start of the Joint Venture, the private sector partners will be carrying out Stage 0 work at risk, with a view to delivering a Qualifying Project. Their costs will be repaid (with interest) once a Qualifying Project has been delivered.

5.5

Cabinets will be required to give approval to projects being listed in Part 1 of the Joint Venture Delivery Plan as well as Part 2.

Part 1 projects are a shortlist of potential projects which may require further development and feasibility studies to be undertaken.

Part 2 projects are “Qualifying Projects” to which the exclusivity provisions apply.

Approval will also be required before a new project request is made to take forward a Qualifying Project and during the project approval process at the Stage 1 decision and at the Stage 2 decision, (unless a particular decision is delegated to officers), so members will always be in the position of deciding which projects are progressed.

A diagram of the Gateway Approval Process is shown at Appendix B.

The ‘Stage 0’ and ‘Project Development’ Method Statements explain in detail how projects will be taken from concept to delivery.

An initial Part 1 list of projects is shown below:

Lewes District Council

North Street Quarter: Springman House New Community Fire Station

North Street Quarter: Energy Services Company

Newhaven Enterprise Zone: Railway Quay

Newhaven Enterprise Zone: Town Centre

Eastbourne Borough Council

New Sovereign Leisure Centre
Bedfordwell Road
Wish Tower Restaurant

With regard to North Street Quarter (NSQ), one of the first tasks of the Joint Venture could be to develop a business case and designs for the energy elements of the project. The NSQ project has always envisaged drawing heat and power for the development site from the River Ouse as a way of minimising the environmental impact of the development and also of minimising the running cost of the development and making it more appealing to potential occupiers. Furthermore, BEIS have granted c.£63,000 to look into how that energy source might be expanded to benefit the rest of the town. The development has therefore always assumed an energy services company would contract with the management company to run that combined heat and power facility. A Special Purpose Vehicle (SPV) established through the SPA would have the potential to be that energy services company, and as such the NSQ project offers a potential early win for the Joint Venture and a source of income. The Joint Venture may also look at undertaking and implementing the BEIS study to look at spreading the benefits to the wider town.

6.0 Strategic Partnership Agreement

- 6.1 The Joint Venture will be overseen at its top level through a 'Strategic Partnership Agreement' (SPA) which gives the greatest flexibility for the long term aims. The SPA will act as an enabling agreement through which individual projects will be delivered.
- 6.2 The SPA has been procured by both Councils through the Competitive Procedure with Negotiation. Key elements of the SPA are:
- Flexible governance arrangements, providing the Councils with the capability to take forward projects with the private sector partner;
 - Other public sector bodies can have a direct relationship with the private sector partner;
 - The Joint Venture Business plans are jointly developed between all parties, with final approval by the Founding Participants (Lewes and Eastbourne Councils) and the private sector partner;
 - There will be no need for further procurement as the private sector partner can choose its own supply chain of contractors and sub-contractors in conjunction with Lewes and Eastbourne Councils (subject to usual best value tests);
 - Internal and external capital can be raised as and when required;
 - Contracts for additional joint ventures and regeneration projects will be drawn up to suit the project, templates will be available, and over time these will be developed for repeating projects.

The SPA is of necessity a detailed legal document.

- 6.3 The private sector partner has the sole and exclusive right and obligation for a period of 10 years from the commencement date of the SPA to provide:

- (i) On-going Partnering Services; and
- (ii) Transformational Partnering Services in respect of Qualifying Projects.

Definitions of these terms are provided below.

On-going Partnering Services: are constant or recurring services which include:

- Partnering and Collaborative Working, supporting participants to develop the JV Delivery Plan, to establish and develop the SPB;
- Supply Chain Management to establish, manage and refresh a supply chain of contractors that can deliver and demonstrate continuous improvement;
- Value for Money to the participants during the term of the SPA.

The private sector partner has no obligation to provide On-going Partnering Services if there are no Qualifying Projects.

Transformational Partnering Services: are services in connection with the development of new projects and include:

- New Project Development and Delivery;
- Selection from Supply Chain for each New Project;
- Funding;
- Value for Money.

6.4

With regard to exclusivity, there are a few points worth emphasizing:

- The private sector partner will have conditional exclusivity rights over Qualifying Projects (the Part 2 list);
- There is no obligation on the Councils to use the Joint Venture to deliver projects unless they choose to make them Qualifying Projects, however if there are no Qualifying Projects over a continuous three year period either party may terminate the arrangements;
- Exclusivity can be suspended if the private sector partner fails to meet certain Key Performance Indicators;
- With regard to Qualifying Projects, exclusivity operates by the project being offered to the private sector partner through the submission of a New Project Request (NPR). This does not oblige a Council to take forward a project. The private sector partner can reject the NPR and then, depending on the circumstances for the rejection, the Council is free to take the project forwards through a different means;
- If other public bodies join the Joint Venture, the E & S JV Steering Board will have the ability if it wishes to consider projects in their areas, and if appropriate take the decision that they cannot be delivered if they are in conflict with the values and visions of Lewes and Eastbourne Councils in their roles as Founding Participants.

6.5

The procurement process required the tenderer to provide example business cases to test their potential to deliver, and their competitiveness.

6.6

Once Eastbourne Borough Council and Lewes District Council approve the appointment of the Joint Venture private sector partner, it is anticipated that the

SPA will be in place by July/August 2017.

6.7 The SPA contains detailed termination provisions. Each new project will be governed by its own set of contractual documents which will contain separate provisions. Compensation is payable on termination in some situations.

6.8 The intention is that only Eastbourne Borough and Lewes District Councils as the Founding Participants will be able to terminate the overall arrangements, although individual participants may terminate their own involvement. Participants are liable on a several (not a joint) basis, and compensation is payable on termination in some situations by either party depending on fault. Further detail on these arrangements can be found in the SPA.

7.0 Legal implications

7.1 Legal Services have been closely involved with the project from inception, and in particular with the procurement process.

The Joint Venture on Energy & Sustainability involves both the selection of a joint venture partner and the award of contracts/concessions. The process undertaken has therefore covered both of these elements to create a long term incremental partnership arrangement. The nature of this arrangement may entail contracts covered by the Utilities Contracts Regulations 2016 and the Concessions Contract Regulations 2016 as well as the Public Contract Regulations 2015 (PCR 2015).

A compliant competitive procedure with negotiation has been undertaken under the PCR 2015 in order to select the proposed Preferred Bidder.

Previous reports have set out the relevant powers. When considering a complex or multi layered arrangement, a number of powers will be used to cover all aspects of the arrangements. It is considered that there are sufficient powers to enable the Councils to procure and participate in the proposed arrangements. Key powers include:

- Section 1 Localism Act 2010: general power of competence
- Section 11 of the Local Government (Miscellaneous Provisions) Act 1976 (as amended by the Electricity Act 1989) which provides that a local authority may generate and sell heat and electricity, and may also purchase and supply heat.

It is considered that the proposed arrangements are compliant with State Aid rules. This element will be monitored throughout the life of the arrangement and in relation to individual projects.

8.0 Resource Implications

8.1 Staffing

Staff time will be required for both the development of the 100 day plan, and for on-going project development. Each project that is delivered through the Joint Venture will be charged an Ongoing Partnering Service Fee. This will be used to pay both the public and private sector's set up costs. Following that 0.25% will be payable to the Council. Over time, this should enable the Council to recover its costs of

participation.

8.2 Financial

8.2 i) Start-up costs

The total start-up costs are up to £300,000, which comprises:

- £100,000 for both Councils' set up costs (£50,000 from Lewes District Council and £50,000 from Eastbourne Borough Council);
- £100,000 for Robertson/AECOM's set-up costs;
- Up to £100,000 to cover Robertson AECOM's costs for the initial scoping and potentially the 100-day plan.

The Councils' set up costs have been met by an existing budget and Robertson/AECOM will be doing work at risk. The £300,000 will be recovered through the fees that will be applied to new projects.

Eastbourne Borough Council will contribute the Government's Heat Networks Delivery funding of £32,500 which is matched by £32,500 of its own funds.

8.2ii) On-going costs

As mentioned in 7.1 the Councils will be required to invest staff time in project development (approx. 181 days) and these costs are recoverable through the income generated by the management fee that is applied.

8.2iii) Capital

A business case will be developed for each individual project that sits beneath the SPA, to include fees, and capital allocations will be requested for each project. Both the business case and capital allocation for each project will require Cabinet approval.

8.2.iv) Fees

There are two types of fees:

On-going Partnering Services (OPS) fee

An Ongoing Partnering Services (OPS) fee of 1.75% will be charged against the total contract value of capital and services projects. This fee is effectively a project management charge, received by the partners, which is broken down as follows:

- | | |
|-------------------------|-------|
| • Founding Participants | 0.25% |
| • E&SP | 1.20% |
| • Surplus Fund | 0.30% |

A brief explanation of each follows:

Founding Participants (FP) - a Management Fee will be taken by EBC/LDC that reflects the Participants' involvement in delivering OPS and recognises their ongoing stewardship of the E&S JV procurement mechanism;

Energy & Sustainability Partner (E&SP) - an OPS Fee will be taken by the Robertson/AECOM JV that reflects it is the primary deliverer of OPS and this necessitates the commitment to a range of fixed annual as well as periodic scalable costs;

Surplus Fund - a contribution to the E&S JV surplus fund will be made to generate cash balances that can be used to fund Stage 0 activities and in turn support the development of an ongoing pipeline of projects and services.

The Business Plan modelling shows that a surplus is likely to start arising once a stated threshold of income is received, most likely towards the end of year 3 / beginning of year 4. Accordingly, the FP and E&SP have agreed that from a cash flow perspective they will have first call on income received ahead of the surplus fund.

All OPS costs incurred by the FP and the E&SP are incurred at risk, and are only recoverable (with interest) when enough OPS income is generated from the E & S JV's pipeline of projects and services. No party has any obligation to the other to make OPS payments in the absence of sufficient OPS income being received to cover the costs of service provision.

Transformational Partnering Services fee

In addition to the OPS fee of 1.75%, a Transformational Partnering Services (TPS) fee of 2.75% will be charged against the capital value of all projects that are delivered as Qualifying Projects. This fee effectively covers any technical input that is required. The TPS for Services & Supplies projects will be calculated on a project by project basis.

Projects generating lower returns but which hold strategic importance will be considered as part of a blended approach.

The OPS and TPS rates will be reviewed every 5 years.

Income generation

8.2v) The main route for income generation is the returns on investments for particular projects. In addition to the Council obtaining a Management Fee income of 0.25% on all projects to cover its costs, it can also invest in projects as a shareholder/investor and generate an income.

Robertson/AECOM intend to invest in projects, and the Councils and other Participants can invest where appropriate. Robertson/AECOM are comfortable with 100% public sector investment for particular projects, but the SPA provides for the option of up to 50% equal footing.

9.0 Risk Management Implications

The table below sets out key risks and mitigation measures.

Risk	Mitigation
Decision not to proceed with joint venture	<ul style="list-style-type: none"> • Procurement already commenced; • Lewes District Council can continue to deliver small-scale projects but these will not have the same impact.

Failure of joint venture	<ul style="list-style-type: none"> • Expectations to be set out clearly in procurement documentation and subsequent contract; • Private sector partner advised that whilst Councils intend to proceed with large scale transformation of the local energy and sustainability infrastructure, this will be dependent on business cases being developed, and projects being approved by Cabinet, and therefore the formation of the SPA will be a commercial risk to the eventual SPA private sector partner; • Experience of other local authorities undertaking similar projects has been investigated.
Failure of energy & sustainability projects	<ul style="list-style-type: none"> • Separate business case required for each individual project; • Cabinet approval required for each individual project; • Gateways and exit rights to be developed and agreed with private sector partner.
Escalation of costs to Councils	<ul style="list-style-type: none"> • Procurement and legal advice to be provided by Council staff; • Costs of development, investment, risk and returns can be shared with private sector partner.

10.0 Equality Screening

10.1 See Appendix A.

Background Papers

The Background Papers used in compiling this report were as follows:

Eastbourne Borough Council Cabinet report 25th May 2016

Lewes District Council Cabinet report 4th January 2017

Joint Venture Toolkit

Q&A Briefing Document

Governance Method Statement

Stage 0 Method Statement

Project Development Method Statement

Engagement Method Statement

To inspect or obtain copies of background papers please refer to the contact officer listed above.

Appendices

Appendix A – Equality Screening

Appendix B – Gateway Approval Process

Appendix A: Equality Analysis Report Template

Title:	Joint Venture on Energy & Sustainability
EA Lead :	Sue Oliver
EA Team:	N/A
Date Commenced:	5th May 2017
Target Completion Date:	12th May 2017
Reason for assessment:	The Joint Venture is being set up via OJEU procurement and will be in place in August 2017.

Context and Scope

1. What are the main purposes and aims of the service/project/decision?

Within the energy sector there is a trilemma of increasing prices, future shortage of supply, and the need to reduce carbon emissions. The food chain faces similar future uncertainty with population growth and major global food regions under threat from extreme weather patterns. There will also be future sustainability issues with transport, waste and water.

Meeting our future needs will require a step change in investment and working with commercial organisations for their specialist skills and experience. Therefore Lewes District Council together with Eastbourne Borough Council is setting up a Joint Venture for Energy and Sustainability which at its top level is through a 'Strategic Partnership Agreement' (SPA), as this gives the greatest flexibility for long term aims and the different needs for each Council.

The SPA has been procured through the Competitive Procedure with Negotiation. Key elements of the SPA are:

- Flexible governance arrangements, providing the Council with the capability to take forward projects with the private sector partner. Other public sector bodies can have a direct relationship with the private sector partner, subject to some oversight by the Founding Participants in relation to On-going Partnering Services and the Joint Venture Delivery Plan. There is flexibility in how resulting projects are structured and the parties to them;
- The Joint Venture Business plans are jointly developed on a needs basis between all parties, with final approval by the Founding Participants and the private sector party;
- There will be no need for further procurement as the private sector partner can choose its own supply chain in conjunction with the Founding Participants (subject to usual best value tests);
- Subsidiary joint ventures (which are likely to be incorporated SPVs) can be set up as and when appropriate. The structure can be determined to suit the project;
- Internal and external capital can be raised as and when required;
- Contracts for additional joint ventures and regeneration projects will be drawn up to suit the project, but there will be templates available and over time these will be developed for repeating projects;
- The opportunity to build in potential for other public bodies to be able to participate and use the new project approval process and access strategic partnering services.

2. What effect does it have on how other organisations operate and what commitments of resources are involved?

There is no impact on any other organisation in terms of operation or commitment of resources. They can join the Joint Venture at their own discretion and with the agreement of the Founding Participants, Lewes District Council and Eastbourne Borough Council.

3. How does it relate to the demographics and needs of the local community?

Individual projects to deliver energy and sustainability measures will sit under the JV. The policy will have a positive impact for the wider community, and as the joint venture is proposed to be long term (10-30 years), there is the potential to benefit large number of residents across all tenures. In particular it is anticipated those in fuel poverty will benefit from a more sustainable energy supply.

4. How does it relate to the local and national political context?

The project has no local or national political implications, but worth noting that it is supported by BEIS (formerly DECC).

5. Is there any obvious impact on particular equality groups?

	Race (includes ethnic or national origins, colour, & nationality)			Disability (includes mental & physical)			Gender (includes gender reassignment)			Pregnancy (includes maternity & paternity)			Sexual Orientation (includes heterosexual, homosexual & bisexual)			Religion & Belief (includes all faiths, beliefs & agnostic)			Age (includes all age groups)		
Impact	Positive	Negative	None	Positive	Negative	None	Positive	Negative	None	Positive	Negative	None	Positive	Negative	None	Positive	Negative	None	Positive	Negative	None
Tick if relevant	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. How does it help to us meet our general duties under the Equality Act 2010?

The proposal has the potential to benefit all residents, in particular those on low incomes and in fuel poverty. It will not affect different protected groups differently.

It is considered that the PSED does not have any impact on the proposal to set up a Joint Venture for Energy and Sustainability.

7. What is the scope of this analysis?

The scope of the analysis is the setting up of the JV and the appointment of the preferred private sector partner, subject to satisfactory finalisation and completion of the contractual agreements. Individual projects will be considered by Cabinet at the appropriate stage, with a full business case for each, and a further EA will be required for each.

Information gathering and research

8. What existing information and data was obtained and considered in the assessment?

No specific data was gathered for the purposes of this assessment.

9. What gaps in information were identified and what action was undertaken/is planned to address them?

N/A

10. What communities and groups have been involved and what consultation has taken place as part of this assessment?

No consultation has taken place with communities and groups in Lewes District, but in Eastbourne, the local Community Environment Partnership (CEPE), Friends of the Earth and Bespoke groups have been consulted about setting up the JV, and all are positive and keen to support and assist the Council's aims in this area of work.

Analysis and assessment

11. What were the main findings, trends and themes from the research and consultation undertaken?

See q 10

12. What positive outcomes were identified?

Reduction of carbon emissions and sustainable energy opportunities, and the delivery of projects, many of which will have a community benefit .

13. What negative outcomes were identified?

None.

Action planning

14. The following specific actions have been identified: *(see paragraph 25 of the guidance)*

Issue Identified	Action Required	Lead Officer	Required Resources	Target Date	Measure of Success
Equality analysis of each project that sits beneath the JV	Undertake EA	Lisa Rawlinson	To be reviewed	TBC	To be determined for each project

Summary Statement

In May 2017 an Equality Analysis was undertaken by Sue Oliver on the Joint Venture for Energy & Sustainability.

Due regard was given to the general equalities duties and to the likely impact of the project on people with protected characteristics, as set out in the Equality Act 2010.

The assessment identified: (*delete as appropriate)

*The policy/service/decision/project was found to have positive outcomes for all groups.

Approval

Director/Head of Service	
Signed	
Dated	