



11 March 2021

Dear Members

**Policy and Performance Advisory Committee - 15 March 2021**

I am now able to enclose, for consideration, the following report at the above meeting that was unavailable when the agenda was printed.

**Item    Item  
No**

**7(b) Investing in Green Energy Initiatives (Pages 3 - 14)**

Report of the Director of Regeneration and Planning.

**11 Investing in green energy initiatives - Exempt Appendix 1 (Pages 15 - 22)**

Exempt information reasons 3 – Information relating to the financial and business affairs of any particular person (including the authority holding that information).

Yours sincerely

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<b>Report to:</b>	<b>Policy and Performance Advisory Committee</b>
<b>Date:</b>	<b>15 March 2021</b>
<b>Title</b>	<b>Investment in green energy initiatives</b>
<b>Exemption:</b>	<b>None</b>
<b>Report of:</b>	<b>Ian Fitzpatrick, Deputy Chief Executive and Director of Planning and Regeneration</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of Cabinet report:</b>	<b>Allocation of revenue funding to: enable a later decision to be made regarding development of, or financing of, proposed green energy initiatives; and to facilitate associated due-diligence work.</b>
<b>Officer recommendations to the Cabinet:</b>	<p><b>(1) To delegate authority to the Deputy Chief Executive to initiate feasibility and due-diligence work for potential green energy initiatives up to a value of £50,000 from revenue funds.</b></p> <p><b>(2) Subject to (1) above, to delegate authority to Deputy Chief Executive, in conjunction with Chief Finance Officer and Cabinet member for finance and assets, to invest up to £100,000 capital funds for initial feasibility into the outlined solar farm subject to further due diligence being carried out.</b></p> <p><b>(3) Approve a waiver of contract rules in accordance with paragraph 4.2.1a of the council's procurement rules for the reasons set out in paragraph 4.2 of the report namely that the council intends to procure Local Partnerships under its Teckal exemption to carry out required due diligence on solar projects rather than seeking consultancy on the open market, subject to this providing best value.</b></p>
<b>Reasons for recommendations:</b>	<b>To provide a critical friend challenge to the Cabinet decision and policy making process.</b>
<b>Contact Officer(s):</b>	<b>Name: Nick Peeters Post title: Committee Officer E-mail: <a href="mailto:nick.peeters@lewes-eastbourne.gov.uk">nick.peeters@lewes-eastbourne.gov.uk</a> Telephone number: 01323 415272</b>

- 1.1 In its role as a provider of public scrutiny and as critical friend, the Policy and Performance Advisory Committee has a duty to provide a challenge to the executive decision and policy makers.
- 1.2 The Policy and Performance Advisory Committee is able to provide this challenge through the inclusion of the Council's Forward Plan of Decisions as a standing item on each of the Committee's agendas, allowing the Committee to request the inclusion of reports due for consideration by the Cabinet on its agenda and by asking that the relevant officers, heads of service or directors, attend the Committee meetings and discuss the content of the reports.
- 1.3 Following consideration of each item, where the Members will be able to ask questions of the relevant officers, heads of service, directors and other stakeholders, the Policy and Performance Advisory Committee will provide one of the following three recommendations to the Cabinet:
  - 1) To support the recommendations in the report in full; or
  - 2) To support the recommendation in the report subject to the consideration by the Cabinet of any amendments agreed by Committee; or
  - 3) To not support the recommendations in the report and give reasons.
- 1.4 The Cabinet will be provided with the recommendations from the Policy and Performance Advisory Committee when it considers the main report.

## **2 Financial / Legal / Risk Management / Equality Analysis/ Environmental Sustainability Implications/ Background Papers**

- 2.1 All implications are addressed in the Cabinet report attached at Appendix 1.

## **3 Appendix**

Appendix 1 – **Investment in green energy initiatives**

**Report to:** Cabinet

**Date:** 25<sup>th</sup> March 2021

**Title:** Investment in green energy initiatives

**Report of:** Ian Fitzpatrick, Deputy Chief Executive and Director of Planning and Regeneration

**Cabinet member:** Cllr Zoe Nicholson, Cabinet member for finance & assets and  
Cllr Matthew Bird, Cabinet member for sustainability

**Ward(s):** All

**Purpose of report:** Allocation of revenue funding to: enable a later decision to be made regarding development of, or financing of, proposed green energy initiatives; and to facilitate associated due-diligence work.

**Decision type:** Key

**Officer recommendation(s):**

- (1) To delegate authority to the Deputy Chief Executive to initiate feasibility and due-diligence work as required for the project outlined in section 2 and Appendix 1 of this report, and for other potential green energy initiatives up to a value of £50,000 from revenue funds.**
- (2) Subject to (1) above, to delegate authority to the Deputy Chief Executive, in conjunction with the Chief Finance Officer and Cabinet member for finance and assets, to provide up to £100,000 for development funding to take the solar farm proposal set out in section 2 and Appendix 1 of this report, to planning submission, subject to further due diligence being carried out.**
- (3) Delegate authority to the Deputy Chief Executive to procure Local Partnerships to carry out due diligence work as required, including that of the development proposal referred to in recommendation (2) above.**

**Reasons for recommendations:** **Investigating the opportunities to develop and enable solar energy production directly supports the aims of the Council detailed within the Corporate Plan 2020-2024 to lead the community to net zero carbon and engage with the community energy sector.**

**Supporting community energy generation could enable community investment and assist with community wealth building objectives.**

**Developing solar generation within the district will help meet goals and targets detailed within the Climate Change & Sustainability Strategy including the overarching net zero carbon by 2030 targets.**

**Investing in operational solar farms is a potentially viable financial decision for the authority that could diversify the investment portfolio.**

**Contact Officer(s):** **Name: Kate Richardson**  
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## **1 Introduction**

1.1 The Council has a publicised interest in pursuing investment in local solar energy for the following interlinked reasons:

- Climate Emergency Declaration made in 2019
- Net zero by 2030 targets for the council and the district
- Target to reduce Council carbon emissions by 60% by 2025
- Target to increase solar generation in the district by 12MW by 2025
- Desire to encourage community owned renewable energy generation
- Desire to generate community wealth through community investment opportunities and increasing the Council's local spend.
- Encouragement and support for a local, green economic recovery.

1.2 This paper is seeking approval for:

1. Delegated authority to allocate a £50,000 budget to pay for feasibility and due diligence on the proposed solar farm and other possible green investment opportunities;
2. Delegated authority to provide up to £100,000 of development finance to enable a community solar farm located within Lewes district to progress to planning submission, subject to further due diligence and an acceptable level of risk.

1.3 OVESCO is seeking to develop a solar farm of up to 12MW capacity generating up to 14,000MW of power each year.

The project is at feasibility stage and comprehensive community engagement work will occur prior to submission of a planning application.

A 12MW solar farm could supply around 4% of the district's annual electricity consumption (2018).

The solar farm will provide the Council with an opportunity to secure a local source of green electricity and support a community owned energy company.

Community investment may be raised through a community share or bond offer in the community energy company OVESCO.

#### 1.4 Opportunity for Reducing the Council's Carbon Emissions

The council currently procures a REGO backed green electricity tariff.

Centrally procured tariffs such as these indicate demand for green power to suppliers and help to achieve the organisations net zero aims if a 'market based' approach is used when reporting emissions. Green tariffs do not in themselves result in additional renewable capacity, nor do they mean that at any given time the power being consumed is actually being generated by renewable sources.

Procuring power through a Power Purchase Agreement (or similar) direct with a solar farm developer means the Council can guarantee a certain amount of solar power has been generated that the Council can utilise and claim meets 'scope 2' zero carbon credentials without relying on accounting protocols.

Investing in direct generation actively supports the decarbonisation of electricity and could provide more price certainty long-term when compared to a green tariff.

## 2 **Project proposal summary – see exempt Appendix 1**

2.1 OVESCO is seeking to develop a solar farm within the district that would be between 6-12MW capacity, generating approximately 7,000-14,000MWh of power each year.

2.2 OVESCO is a not-for-profit enterprise working to develop and operate community-owned renewable energy to reduce carbon emissions and benefit the communities of Lewes and across East Sussex. To date, OVESCO has delivered over 5MW of community solar on local schools and businesses, and manages Meadow Blue solar farm near Chichester. These solar installations are mainly financed through share capital raised from the local community. Surplus income generated is re-invested in supporting further local carbon reduction initiatives.

2.3 OVESCO has secured £40,000 of grant funding from the Government's Rural Community Energy Fund (RCEF) to fund feasibility and initial development work which has now been completed. The feasibility work was carried out by Buro Happold Engineers, Engain environmental consultants and Communities for Renewables CIC (CfR).

The total estimated cost of further work required to get to submission of the planning application is £250,000.

OVESCO will be applying for a further £100,000 of RCEF funding (decision due end of June) and are requesting £100,000 from the Council to go towards the costs of work up to the planning submission.

Illustrative future capital finance requirements and potential Return on Investment

For the 6-12MW scheme the required capital investment is in the region of £3-5million with illustrative returns provided by the developer of 3-4%

2.4 Project Timeline

Year	2020	2021				2022	
Quarter	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Feasibility							
Land option and lease							
Planning							
UKPN Grid Connection Application and offer							
Power purchase Agreement (private wire and/or sleeved export PPA)							
Ownership and governance set up							
Finance (construction and long-term debt + community share offer)							
Community and stakeholder engagement							
Procurement and preconstruction							
Construction							

2.5 Details of the project proposal are to be found within exempt Appendix 1

**3 Summary of the development finance request**

3.1 OVESCO are initially seeking development finance of £100,000 to take the project to construction readiness. This investment in conjunction with other funds potentially gained from the RCEF and/or others would enable the project to reach shovel ready condition enabling the following steps to take place:

- Procurement of reports required for planning including ecological and archaeology reports and drawings.
- Project management
- Appoint legal team to secure land option agreement
- Connection design and application
- Developer fee
- Further costs post planning to construction
- Community engagement

- 3.2 The need for this type of finance is common to construction projects where feasibility reports and legal work are required to be undertaken before a project can submit a planning application.

This type of finance is quite often the most difficult for a community energy project to secure.

- 3.3 If Cabinet provide delegated authority to provide this funding (along with the feasibility monies requested), and the decision is made to provide this initial £100,000, subject to satisfactory progression of the scheme (such as receipt of the RCEF funding), an outline business case for long-term capital finance can be expected at Cabinet by July 2021.

## 4 Local Partnerships

### 4.1 Local Partnerships- Background

Local Partnerships is a joint venture between the Local Government Association, HM Treasury and the Welsh Government. They provide an interface between central government policy and local delivery.

Local Partnerships has been supporting the development of solar PV projects as part of the Welsh Government Energy Services since 2014. Local Partnerships regularly reviews proposals from contractors to install solar PV into a variety of settings and have access to market intelligence.

#### Scope of work

Initial conversations have been had between the Council's officers and Local Partnerships (LP) to begin due diligence work. LP have provided a brief review of the proposed solar farm to assist in initial decision making with regards to investing in the proposed scheme and to highlight matters for further consideration.

LP have reviewed the document presented as exempt Appendix 1 amongst others and has conducted a call with key people involved in the project to clarify and expand on the information provided.

- **The work carried out to date does not constitute full or formal due diligence.**

#### Initial feedback

There is a deliverable scheme at the site, though more in depth discussions are needed around the size/details of the scheme, and further work on details of the development finance to ensure optimum value for the Council.

The Council's involvement in the scheme has the potential to ensure that the scheme is delivered, where without that there is deemed to be a significant chance that the scheme will fail, either through development failures or through an inability to raise the necessary development finance.

#### 4.2 Procurement exemption

In consultation with Homira Javadi, Chief Finance Officer, and Ian Fitzpatrick, Deputy Chief Executive, the council has commissioned Local Partnerships to carry out an initial review of the project proposal.

Procurement of further feasibility and due-diligence studies from Local Partnerships is not bound by the Council's Contract Procedure Rules\*, as the awarding of a contract to Local Partnerships falls within regulation 12(4) of the Public Contracts Regulations 2015 by reason of Local Partnerships being a "controlled legal person" through its part ownership by the LGA, of which the Council is a member.

\*Rule 2.3.1 makes an exception with regard to: a) Public services contracts which are excluded from the application of the PCR 2015 under Regulation 10 (Specific exclusions for services contracts) and Regulation 12 (Public Contracts between entities within the public sector).

Accordingly, the Council may award a contract to Local Partnerships without a competitive tendering exercise, but subject always to the Council being assured that the award to Local Partnerships represents best value.

### 5 **Potential other and community benefits**

- 5.1
- The Council has committed to supporting the expansion of community-owned renewable energy projects within the Council Plan 2020-2024.
  - The programme will help stimulate demand in the local supply chain and help maintain jobs in the solar PV industry locally. Local jobs will also be sustained through work financed by the Community Benefit Fund and residents will benefit directly from the funds outputs (see 5.2 below).
  - It will help Lewes district reduce its CO2 emissions and contribute to the district's solar generation targets as contained in the Climate Change and Sustainability strategy.
  - It will potentially enable the council to purchase the power generated and reduce the reliance on REGO backed grid supplies of green energy.
  - A delegated budget of £50,000 for feasibility work (recommendation 1) would enable due-diligence to be carried out in full on current projects and will enable a pot of money to be available for additional work to be undertaken on future projects without requiring further formal authorisation from Cabinet.
- 5.2
- In addition to the carbon savings, the financial models for the solar farm included a £50,000 minimum contribution to a community benefit fund. The fund would support local projects and enable the recruitment of a part-time Community Energy Officer for the benefit of the local community. The overall objective is that

the energy savings achieved will be significantly greater than the cost of delivering the programme. The Energy Officer would complement OVESCO's other activities that relate to education through its school and STEM activities, energy saving advice and support of the District in transitioning to net zero by 2030.

Being a community project, all the surplus income from the solar farm will be returned to the community.

## **6 Financial appraisal**

**6.1** Developing solar generation within the District will help in meeting goals and targets detailed within the Council's Climate Change & Sustainability Strategy. This new initiative will require an initial contribution of £100,000 from the Council to fund feasibility and initial project development work, which will be in addition to grants/contributions from other partners including the Government's Rural Community Energy Fund (RCEF).

**6.2** The initial contribution will be funded from the Council's Local Energy Schemes projects allocation within the capital programme, and various construction stages within the project delivery programme will have financial implications for the Council. Therefore, as work develops and further funding is required, projects and activities will be subject to individual business cases as appropriate, due diligence and financial scrutiny will be carried out to assess the construction costs, subject to management review before recommendations are made to the Cabinet.

## **7 Legal implications**

The Council could use the general power of competence (GPOC) in section 1 of the Localism Act 2011 for the proposals in this report to provide either a grant or a loan. However, the exercise of that power would be subject to any limitations and restrictions of existing legislation, including those under section 12 of the Local Government Act 2003 (concerning the Council's powers to invest).

Section 12 of the 2003 Act permits the Council to invest for any purpose relevant to its functions under any enactment or for the purposes of the prudent management of its financial affairs. In exercising that power, the Council must have regard to statutory guidance on local government investments, the most recent edition having effect from 1 April 2018. This guidance advises that an "investment" includes loans made by a local authority to third parties.

The new Subsidy Control regime applies from 1 January 2021, as the EU State aid rules no longer apply due to Brexit. In place of the EU State aid rules, the UK has committed to introducing its own domestic subsidy control regime which includes the requirements set out in the UK-EU Trade and Cooperation Agreement (TCA) and other trade agreements. The Council will need to keep under review the question of whether there is any subsidy in the arrangements as the proposals are progressed and take appropriate steps to ensure that any funding given is lawful. Subsidy may occur in this situation either through funding being given other than on commercial market terms to OVESCO or

possibly where any aid might flow though in terms of any other arrangements in, for example, providing subsidy to private sector entities.

It should be noted that some subsidies are excluded from the TCA regime and this would include subsidies where the total amount of subsidies granted to a single economic actor is below 325,000 Special Drawing Rights (in the region of £335,000 currently) over any period of three fiscal years – this is similar to the previous State aid de-minimis aid rules.

In addition, the TCA recognises the importance of a secure, affordable and sustainable energy system and environmental sustainability, notably in relation to the fight against climate change which represent an existential threat to humanity. Therefore, without prejudice to the general principles that apply when granting a subsidy, it provides that the subsidies in relation to energy and environment must be aimed at, and incentivise the beneficiary in, delivering a secure, affordable and sustainable energy system and a well-functioning and competitive energy market or increasing the level of environmental protection compared to the level that would be achieved in absence of the subsidy.

*Date of legal advice: 10.03.21*

*Legal ref: 008444-JOINT-OD*

## **8 Risk management implications**

8.1 Similar to our own in-house developments, this initial finance requirement for pre-planning submission feasibility work and reports is at-risk. If the project fails to gain planning permission or fails to complete for another reason, the monies will be lost.

Officers are requesting the delegated authority for up to £100,000 development funding. If deemed appropriate by due-diligence work, payments can be staged to be issued as certain, to be determined, gateways/milestones are met by the developer.

If the £100k feasibility finance is provided to OVESCO and the Council seeks to provide further construction finance or a post-construction re-financing investment, a full business case and due diligence will be completed for review by Councillors at July 2021 cabinet.

There may be reputational risks to be managed for both the council and OVESCO if the project fails to proceed and the investment is lost.

## **9 Equality analysis**

9.1 No direct implications for equality have been identified at this stage, although improved responses to the impacts of climate change and reducing carbon emissions will generate co-benefits for people living and working in the district and potentially improve the environmental legacy passed on to young people.

## **10 Environmental sustainability implications**

- 10.1 There are potentially positive environmental and sustainability implications around the production of local solar electricity as discussed above. Any site specific negative implications will be considered through the planning application and reports that are due to be produced. The land is currently agricultural.

Successful development of the project will assist both the Council and the district meet its net zero carbon by 2030 targets.

## **11 Exempt Appendices**

- 11.1 1. Scheme proposal

## **12 Background papers**

- 12.1 The background papers used in compiling this report were as follows:

- [Lewes District Council Full Council July 2019- Declaration of Climate Emergency](#)
- [Lewes District Council Cabinet December 2020- Community wealth building](#)
- [Lewes District Council Cabinet February 2021- Climate Change & Sustainability Strategy](#)

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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