

Report to: Cabinet

Date: 8 July 2021

Title: Investment in green energy initiatives- update

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: To provide an update to the work initiated by the report considered at Cabinet on 25th March 2021. To provide further allocation of revenue funding to: facilitate delivery of the Ouse Valley Solar Farm project to planning application stage; to reduce risk to the project failing; and associated due-diligence work and business case development.

Decision type: Key

Officer recommendation(s):

- (1) To delegate authority to the Deputy Chief Executive, in consultation with the Chief Finance Officer and Cabinet member for finance and assets, to increase the loan provision to OVESCO up to a maximum of £155,000 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, satisfactory loan terms and milestones being agreed.
- (2) To request that the Climate Change Scrutiny Panel provide oversight to the project

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.

Development finance is the most difficult finance to gain for a community energy company when delivering a project of this scale.

Maintaining Council input into the development of the project financially de-risks it and enables project oversight to hopefully ensure delivery.

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.

**Contact Officer(s): Name: Kate Richardson
 Post title: Strategy & Partnership Lead- Sustainability
 E-mail: kate.richardson@lewes-eastbourne.gov.uk
 Telephone number: 01323 415202**

1 Introduction

1.1 As discussed in the previous report brought to Cabinet in March 2021, 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 Consultants Local Partnerships were commissioned by the Council to examine the options available with regards to provision of development finance for the Ouse Valley community solar farm scheme proposed by local community energy company OVESCO. Local Partnerships have reviewed the conditions under which the initial £100,000 of monies could be issued and officers have reviewed the legal and financial implications for the loan agreement.

Local Partnerships have analysed the 'critical success factors' and confirmed that both parties are largely aligned, agreeing that:

- The main aim of the project is to increase the amount of locally produced solar energy in the district
- both parties are seeking to increase community wealth and ownership of power generation
- the council is actively seeking to assist not for profit community ventures such as this

Local Partnerships have taken these critical success factors and developed conclusions on a variety of options to enable the council to consider how it should best get involved in this project to deliver both parties main aims. These are detailed in section 3.

- 1.3 This paper is seeking approval for:
- An increase in the prior approved £100k development finance to a maximum of £155k
 - Using the Climate Change Strategic Panel for project oversight to take updates and provide scrutiny of the project management.

2 Work completed to date

- 2.1 After the cabinet decision in March 2021 officers initiated an options appraisal to be carried out by its consultants Local Partnerships. This has involved carrying out 3 workshops with OVESCO and council officers to determine the best possible form of working to progress development of the Ouse Valley Community Solar Farm and to meet the aims of both parties in developing a community owned renewable energy facility.

The report was completed 11 June 2021 and can be found in exempt appendix 1 and is summarised in section 3 below.

- 2.2 OVESCO have completed the following main tasks since March 2021:
- Made the grid application
 - Submitted a bid for £100k to Rural Communities Energy Fund (RCEF)
 - Completed the agricultural land grade assessment – result = 3b
 - Site visit with Local Partnerships Strategic Director
 - Gained quotes for surveys and begun this work

- 2.3 Concurrently with the options appraisal, officers have been investigating and determining the best way of issuing the initial development funds to OVESCO.

Work is in progress to develop suitable loan terms complete with required milestones. These will need to be shared and agreed with OVESCO once finalised internally.

It is anticipated that the conditions of the loan will include an initial payment of £10,000 to cover milestones already met. Further payments will be conditional on achieving future milestones set out or approved by the council under the agreement.

Milestones will be reported to and monitored through the Climate Change Strategic Panel.

3 Options Appraisal summary

- 3.1 The report in Exempt Appendix 1 considers both project and wider risks and how these can be managed and navigated to provide a compliant package of measures which support the development of the project.

The Ouse Valley Solar Farm provides a good fit with council strategic objectives in particular:

- Climate emergency declaration made in 2019
- net zero by 2030 targets for the council in the district
- target to reduce council carbon emissions by 60% by 2025
- target to increase solar generation in the district by 12 megawatts by 2025
- desire to encourage community owned renewable energy generation
- desire to generate community wealth through community investment
- opportunities and increasing the councils local spend
- encouragement and support for a local green economic recovery

3.2 The success factors for the council and OVESCO have a high degree of alignment in relation to two key areas:

- Delivery of significant renewable energy capacity located within Lewes
- Requirements to be transparent and adhere to the highest standards of compliance and scrutiny

Whilst there was general alignment with many of the other success factors the extent to which they were prioritised varied between the council and OVESCO although many common themes were evident, of note were the following:

- Creation of new green jobs and additional capacity within the sector. OVESCO are keen to grow but are risk averse and this would provide a strong rationale for the Council to want to support OVESCO through the development of the solar farm.
- Maximising biodiversity net gain is important to both the Council and OVESCO
- Long term Council involvement in the scheme is not a key driver for either party.

3.3 Development finance is inherently risky and in advancing the development funding the council needs to consider the following impacts

1. compliance with local government powers
2. compliance with procurement legislation
3. compliance with subsidy control regime
4. compliance with PWLB lending requirements

3.4 Key recommendations:

- A project oversight group be set up
- Loan funds should be provided in tranches and have milestones agreed and monitored
- The Council should consider retaining an independent expert to ensure the successful delivery of the project
- The Council needs to decide if the risk of providing additional capital is worth the reward of simplifying the finance process for OVESCO to prevent a third party funder being sought.

4 Next steps

4.1 Based on the report in Appendix 1 and internal discussions Officers consider the next steps to be:

1. Increase to the financial support available to OVESCO in order to take the project to planning application stage later this year subject to successful gaining of the RCEF grant and securing the grid connection.
2. To agree to use the existing Climate Change Scrutiny Panel for project oversight.
3. To retain an independent expert for approximately one day per month until further notice to provide project support to OVESCO, council officers and the Climate Change Strategic Panel. Revenue funding that can be used for this purpose was provided in the March Cabinet paper.
4. For the Climate Change Scrutiny Panel to consider options available to the council for future involvement as the project progresses.

4.2 Increasing financial support

Back in March it was uncertain as to what size of project would actually be taken forward, which had an impact on estimated costs, it is now looking likely that a larger scheme (16MW) will be taken forward and as such quotes for pre-planning submission work and the completion of the RCEF bid mean the capital requirement for the scheme is now more certain and the £55k increase to the council loan is requested to cover these costs, to remove the need for another third party funder to be sought by OVESCO which could potentially affect timescales and project viability.

The Deputy Chief Executive, in exercising the authority granted him under recommendation 1, will issue the loan in tranches, but in consultation with the Chief Finance Officer and the Cabinet Member for finance and assets.

Increasing support at this stage is discussed further in the 'Risk Implications' section 8 below.

4.3 Project oversight

Officers recommend using the Climate Change Strategic Panel for project oversight as this is a pre-existing cross-party group set up to provide scrutiny of climate change and sustainability projects, of which this is one.

The Panel has the following remit:

- To scrutinise both the progress of work being undertaken by the council in tackling climate change, and the effectiveness of the outcomes of that work.
- To receive progress reports on the strategy, policy and actions enacted by the council to address the climate emergency, including measurements and data to evidence progress.
- To monitor the implementation of recommendations made by the Climate Action Group, agreed by Cabinet on 1 July 2019

- To undertake policy development activities assisting in the formulation of climate change mitigation and adaptation proposals.
- To invite appropriate experts to provide advice and information to help inform policy development work in relation to climate change.
- To promote the council's work in this area, engaging with and building partnerships, alongside the Cabinet Member for Sustainability.

4.4 The existing purpose of the Panel fits well with the need for the oversight required to help this project through to completion.

It can provide critical analysis of the progress by OVESCO with regards to the development loan provided, review milestones for future loan tranches and monitor progress, consulting with the Lead Member for finance and assets if needed.

The Panel can also review project progress generally and provide opinion to Cabinet and PPAC regarding future involvement on the project if and when this is required.

Panel members who also sit on Planning Committee will need to consider whether it is appropriate to take part in that Committee's consideration of any planning application relating to the proposed solar farm, given their prior involvement, and should seek the advice of Democratic Services and Legal Services officers in advance.

4.5 Officer support to be provided by:
Ian Fitzpatrick, Deputy Chief Executive & Director of Planning & Regeneration (as required);
Kate Richardson, Strategy & Partnership Lead Sustainability;
Planning Officer TBC

Plus:
Independent Expert

5 Financial appraisal

5.1 Developing solar generation within the District will help in meeting goals and targets detailed within the Council's Climate Change & Sustainability Strategy. This initiative will require an initial maximum loan provision of £155,000 (i.e. an additional £55,000 in addition to the £100,000 previously agreed) from the Council to fund feasibility and initial project development work. This in addition to the grants/contributions from other partners including the Government's Rural Community Energy Fund (RCEF).

5.2 The loan provision to OVESCO 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 diligent and financial scrutiny will be carried out to assess the

construction costs, subject to management review before recommendations are made to the Cabinet.

- 5.3 OVESCO is not currently offering either loan security or guarantee in relation to any loan funds released and it is therefore for the Council to satisfy itself that, in the event of project failure the Council exposure to abortive costs will be mitigated through securing access to project rights in the event that OVESCO decide to shelve or abandon the project, and/or releasing funds in a series of tranches as key project risks are closed.

6 Legal implications

- 6.1 This report uses the term “OVESCO”. There are a number of related entities that are collectively referred to under that term including OVESCO Limited (a registered society) and OVESCO CIC (a community interest company). The council will, as part of the due diligence process, need to be satisfied as to the identity of the legal entity that is to enter the loan agreement before payments are made.

- 6.2 As set out in the previous March cabinet paper the council has a number of powers available to facilitate the loan agreement.

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.

- 6.3 The subsidy control regime relevant to the provision of a loan was set out in the previous March cabinet paper. The council will continue 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.

Economic transactions carried out by the council do not confer an advantage, and therefore do not constitute a subsidy, if they are carried out in line with normal market conditions. It is the intention of the council that the loan will be provided on terms which, in similar circumstances, a private investor of comparable size operating in normal conditions of a market economy could have been prompted to offer and that therefore there will be no subsidy.

The Chief Finance Officer has undertaken a review of potential loan terms and interest rates and in particular with reference to the EU reference rates communication to calculate the rate to be used.

- 6.4 The council's primary purpose is acting as an investor in these arrangements and it is not acting as a purchaser of works, services or supplies as defined in the Public Contract Regulations 2015. In any event the PCR2015 specifically exclude from its scope services contracts for loans.

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7 Risk management implications

- 7.1 Risks regarding this project are detailed in the report in appendix 1 section 5.2 and those detailed in the March cabinet paper remain true.

At this stage of the project the major risk is the need for a third provider of development finance in addition to the RCEF (if successful) and council funds. This introduces the following risks:

1. Any new source of development finance is likely to require first call on step in rights meaning the council is less likely to be able to proceed with the project if OVESCO withdraw for any reason
2. OVESCO are unable to secure additional development finance and the project cannot proceed

These risks can be mitigated by the council providing additional development finance so a third party is not required.

Funding after the initial £10k should only be provided if the RCEF bid is successful and the grid application secured. This should be known in July

The Council is also meeting PWLB loan requirements by providing enabling finance to allow the project to proceed and to be more financially viable as it progresses towards construction.

8 Equality analysis

- 8.1 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.

9 Environmental sustainability implications

- 9.1 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.

10 Contribution to Community Wealth Building

- 10.1 Key to the project is OVESCO's commitment to 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 Ouse Valley Solar Farm will be returned to the community.

The project hopes to make use of local skills to build the development and so provision of development funding by the Council will enable this to occur.

11 Exempt Appendices

The appendix contains exempt information as defined in Schedule 12A of the Local Government Act 1972.

Paragraph 3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- Appendix 1 – Report of Local Partnerships- Renewable Energy Investment for Lewes District Council

12 Background papers

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

- [‘Investing in green initiatives’](#) paper to Cabinet 25th March 2021