
Summary of decisions taken at a meeting of the SELEP Accountability Board, held in High House Production Park Vellacott Close, Purfleet, Essex, RM19 1RJ on Friday, 15 June 2018

Published on Friday 15th June 2018. Provided a decision has not been called in by close of business on Wednesday 20th June 2018 it can then be implemented.

Please note that this is a summary of decisions taken at the meeting only. A full account of proceedings will appear in the minutes of the meeting which will be published on the Council's website by Wednesday 3rd July 2018.

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Present:

Cllr Kevin Bentley	Essex County Council
Cllr Mark Dance	Kent County Council
Cllr Rodney Chambers	Medway Council
Cllr Keith Glazier	East Sussex County Council
Cllr Tony Cox	Southend Borough Council
Angela O'Donoghue	Further Education/Skills representative
Audrey Songhurst	Higher Education representative

1 Welcome and Apologies for Absence

The following apologies were received:

- Councillor Paul Carter (substituted by Councillor Mark Dance)
- Lucy Druesne (substituted by Audrey Songhurst)
- Geoff Miles with Angela O'Donoghue acting as Chair in his absence
- Councillor John Lamb (substituted by Councillor Tony Cox)
- Councillor Rob Gledhill

2 Minutes

The minutes of the meeting held on Friday, 27th April 2018 were agreed as an accurate record and were signed on behalf of the Chairman.

3 Declarations of Interest

There were none.

4 Ombudsman Complaint

Adam Bryan advised the Board that an Ombudsman complaint had been received.

The Complaint: Medway Council obtained £4.4m of local government enterprise partnership money through fraudulent statements and declarations. The ELEP

who awarded the funding have failed to independently investigate the serious accusations or take action to protect the integrity of the local government enterprise partnership.

The Ombudsman complaint has been referred to their investigation team for further consideration and to determine whether they will investigate the complaint. ECC has not yet received information from the Ombudsman that they are conducting an investigation, only that they are considering the substance of the complaint at this time.

If they do decide to investigate the complaint, then of course ECC and the SELEP Secretariat will co-operate with that process and will provide any papers requested by the Ombudsman.

Part of the requirement of the complaint is that the complainant has been directly affected by the matter for which they are complaining about or it must have caused the person injustice, in addition the website stipulates that they will not normally look at a complaint if the issue affects most people in the Councils area.

If an investigation is conducted, then the Ombudsman aims to reach a decision within 26 weeks.

Nothing on their website, nor in their letter notifying the Accountable Body of the complaint suggests that any further decision making should be placed on hold. The decision to award the original £4.4m was taken in 10 June 2016. The decision before the board does not change the value of that funding allocation, but the work to be carried out within that funding bracket. In addition the Agreements In place between the Accountable Body and the upper tier authorities provide for the return of any misappropriated funding. Therefore if there is any findings made by the LGO or another authoritative body then any allocation will be returned. Where spend has already taken place against that funding, the relevant upper tier authority will be responsible, under the terms of the agreement, to under write those values and therefore will be ultimately responsible for any repayment.

Accordingly should the Board determine that they have sufficient information before them today, and having heard the presentation from Medway and ITE, and considered the content of the report, and discussions they may have at the relevant point in the agenda, then they are able to consider the recommendations contained within that report, and vote accordingly, should they wish to do so.

5 Questions from the Public

Question 1

Cllr Vince Maple, Leader of the Medway Labour Group and Councillor for Chatham Central, to Cllr Paul Carter

For some time I, along with my Labour colleagues at Medway Council, have questioned whether the £4.4m LGF investment in the Rochester Airport project is best use of public money for growth in Medway. As mentioned in the minutes of

the last meeting (page 4, Item 8), there was some 'confusion and ambiguity' regarding the Rochester Airport Project. The Medway Local Democracy Reporter reported that, 'Cllr Paul Carter (Con) raised concerns about why public money was being used to support a private business (Rochester Airport Ltd),' and 'Cllr Carter also said there was not enough information linking phases one and two to make a decision. Concerns were also raised about how the outcomes of phase one could be the same.'

Therefore the Board resolved that any decisions made about the project being deferred to today's meeting. Now that the Board has had the opportunity to consider further details of the project, can Cllr Carter confirm whether his fears have been allayed, or like me does he remain unconvinced that this is best use of public money for growth in Medway, particularly in light of the proposed changes for the project?

Response as provided by Cllr Mark Dance, Kent County Council

"Unfortunately, I am unable to attend the meeting today however I have asked Mark Dance, KCC's Cabinet Member for Economic Development, to sub for me and to provide this response.

"Following the last Accountability Board meeting, I have met with the Leader and senior officers of Medway Council regarding the Rochester Airport project and I have had sight of the detailed report and presentation the board will receive today. I can confirm that my earlier concerns have now been resolved.

"Consequently, I am now happy to support the proposed LGF investment in the Rochester Airport Project".

Question 2

The Chairman welcomed Mr McLennan who read out a question on behalf of Mr Fred Montague, a resident of Kent, who had previously registered his question.

As a regular contributor to the Kent Surrey and Sussex Air Ambulance Service, (KSSAAS) when I heard the charity was considering a move back to Medway I wrote to the CEO about the planning issues in respect of the proposed changes to Rochester airport.

In his reply he confirms:

"The Trust has been offered no incentives to come to Rochester and no guarantees or indemnities about its future operation. Those considerations would be irrelevant anyway for the office building we wish to erect. The synergy between our office activities and the use of Rochester as a forward operational base is of value to us, but it is not a prerequisite of our application; it just represents a logical and sensible strategy for us to adopt and one that enables us to maintain our existing excellent Marden management, administration and fund raising teams."

He also stated:

“We currently operate perfectly satisfactorily and safely at Rochester with both runways in existence; that would not change if only one runway was to remain, or indeed no runways at all.”

From the CEO’s reply it is clear that:

- The closure of Rochester Airport would not impact the operational aspects of the KSSAAS
- Their move was not predicated on the Rochester Airport enterprise zone status
- The HQ move is predominately a transfer of jobs from the KCC area to Medway.
- Any new jobs are specific to the KSSAAS success not through a move to Rochester alone.

Why does Medway Council in its revised SELEP business case attempt to leverage and claim the success in attracting the KSSAAS charity to Rochester airport due to the enterprise zone status and future upgrade when the CEO himself refutes the claim?

Response

Medway Council confirmed the following:

“Medway Council has in no way attempted to claim that the achievement of Enterprise Zone status attracted the Kent, Surrey and Sussex Air Ambulance to the site.

“It is clear from the comments made by the CEO of the Air Ambulance that locating their administrative headquarters at Rochester Airport, which is already used as a forward operational base, is a logical and sensible strategy to adopt, with the synergy between the administrative activities and the use of the site as a forward operational base proving valuable. The proposed project outputs safeguard the future of Rochester Airport which in turn maintains the use of the site as a forward operational base by the Air Ambulance which has been highlighted as adding value to their activities.

“It is acknowledged that the Air Ambulance jobs being transferred to the new administrative headquarters at Rochester Airport are already in existence in the SELEP area, and therefore these jobs are not being offset against the total of 37 new jobs that will be created as a result of the airport infrastructure improvements. Furthermore, it is not being claimed that any new jobs created by the Air Ambulance following their move to Rochester, are directly linked to their move”.

Question 3

The Chairman welcomed Mr Anthony Finbow, a resident of Kent, who had previously registered his question

Why has the option to close Rochester Airport and redevelop the entire site been omitted from the revised Rochester Airport Technology Park business case

given that it is important to ensure Value for Money is delivered and that:-

- The airport operator is unable or unwilling to pay for the entire overrun of costs for the agreed airport works;
- The 25 year airport lease contains a deed of revocation which permits the airport operator to walk away from the contract with no penalty;
- The adopted Medway Local Plan and saved policies do not safeguard the airport or continuation of flying at the Rochester airport site;
- The adopted Medway Local Plan and saved policies permit the airport land to be used for a Technology Park without limitation on the scope or size of development;
- The airport has no national heritage or official historic status;
- Rochester airport is one of two general aviation sites in Medway so leisure and sports flying will be retained in the area if Rochester airport is closed;
- Greater social, economic and environment value for money could be achieved by the full use of the site without an airport; AND THAT
- The closure of the cross runway and the continuation of flying at Rochester airport has been expertly proven to increase noise impact to local residents;
- The mitigation of risk and environmental impact attributed by Medway Council and Rochester Airport Limited to a paved runway is no longer applicable;
- There is no business model for the revised airport investment which evidences financial viability of the site as a long term operational airport with or without out a paved runway.

Response

Medway Council provided the following response:

“Medway Council has a long-held commitment to safeguard the future of Rochester Airport. For this reason closure of the airport and redevelopment of the entire site is not considered to be an option in itself.

“Within the Do Nothing scenario included within the Business Case the closure of Rochester Airport was considered to be the consequence of receiving no LGF funding. However, in this scenario very limited development would be forthcoming due to the failure to secure the requested LGF funding.

“The revised Business Case considers the impact of the proposed change in project outputs on the benefits offered by the project. Whilst alternative options were assessed following receipt of the Quantity Surveyor cost review, it was considered that the only viable option was to progress with the preferred option - implementation of masterplan immediately – as detailed in the Business Case, albeit with a change to project outputs and therefore no further options have been added to the revised Business Case”.

Question 4

Mr McLennan read out a question on behalf of Wendy Montague, a resident of Kent, who had previously registered her question.

The SELEP Accountability board is funding a £4.4 million payment to a limited liability private company with share holders which is interest free, non repayable without security or matching contribution.

Why is there no Rochester Airport Limited equal and matching private financing towards the airport works when the airport lease makes clear the payment of £4.4 million is only a contribution to the infrastructure improvements?

There is no mention of equal and matching funding in the revised RATP business case.

Response

Medway Council provided the following response:

“The SELEP Accountability Board is funding a £4.4m payment to Medway Council, not to Rochester Airport Ltd. It is Medway Council that is the Accountable Body for this project, not the airport operator. The airport site and all its’ assets are within Medway Council ownership. Following the cessation of the lease all assets on the site will return to Medway Council control, meaning that Medway Council is the long-term beneficiary of the project.

“There is no requirement for Rochester Airport Ltd., under the original tender documentation, the lease or the conditions of the Local Growth Fund, to make an equal match contribution towards the airport works”.

Question 5

The Chairman welcomed Laurence Lucas, a resident of Kent, who had previously registered his question.

Medway Council in their revised business case for RATP phase 1 lists the refurbishment of hangars 3 and 4 as an expenditure of the LGF £4.4 million grant. Yet there is no disclosure in the revised or original business case that Rochester Airport Limited the current lease holder has been contractually responsible for all maintenance and repairs to the buildings since 2000.

The period for which Rochester Airport Limited has had use of the hangars (18 years) equates to over 20% of the airports life.

Why did Medway Council not disclose the Rochester Airport Limited building maintenance and repair liability or include a matching contribution towards their refurbishment by the lease holder in the SELEP business case?

Response

Medway Council have confirmed that, “There is no requirement for Medway Council to disclose the terms of the lease agreement with Rochester Airport Ltd. within the project Business Case as this does not form part of SELEP’s

considerations. It is important to note that the lease is a publicly available document which can be reviewed by any interested parties.

“The requirement for Rochester Airport Ltd. to maintain the buildings on the airport site, in accordance with the agreed schedule of condition, has been referred to within the project update report on more than one occasion.

“There is no requirement for Rochester Airport Ltd., under either the original tender documentation or the lease, to make a contribution towards the hangar refurbishment works.”

Question 6

Mr McLennan read the following question on behalf of Rita Mew a Kent resident who was unable to attend in person, and for which previous approval had been sought from the Chair prior to the meeting.

Medway Council's Rochester Airport Technology Park business case contains a letter of assurance by the Section 151 Officer that Rochester Airport Limited (the current airfield leaseholder) will be responsible for all cost overruns for the airport material works approved by the SELEP Accountability Board, June 2016.

Why is Medway Council attempting to renege on its Chief Financial Officer's binding commitment by citing cost overrun as an excuse to reduce the agreed works, when less than a year ago (May 2017) Medway confirmed in writing to SELEP the airport phase was financially viable? There have been no unforeseen issues or delays preventing Medway from starting the project since.

Response

Medway Council has stated that, “Medway Council are not attempting to renege on the commitment made by the Chief Finance Officer in the original Business Case. Since the Business Case was developed further work has been undertaken to develop a more detailed understanding of the scheme requirements and specification. This work has highlighted, particularly through the Quantity Surveyor review which was carried out in March 2018, that the scheme in its entirety cannot be delivered within the agreed LGF allocation.

“Due to the scale of the current cost over-run, making Rochester Airport Ltd. cover the additional costs is not considered conducive to safeguarding the future of the airport, which is a key overall objective of the project. However, moving forward Rochester Airport Ltd. will be required to cover any reasonable cost over-run which arises during the construction period.

“Medway Council is the Accountable Body in relation to this project, not Rochester Airport Ltd. and therefore the Council is ultimately responsible for the project”

6 A131 Braintree to Sudbury RBS LGF Funding Decision

The Accountability Board (the Board) received a report from Rhiannon Mort and a presentation from Steer Davies Gleave, the purpose of which was to make the Board aware of the value for money assessment for the A131 Braintree to Sudbury Route Based Strategy (the Project) which has been through the Independent Technical Evaluator (ITE) review process, to enable £1.8m Local Growth Fund (LGF) to be devolved to Essex County Council for Project delivery.

Resolved:

To Approve the award of £1.8m LGF to support the delivery of the Project identified in the Business Case and which has been assessed as presenting high value for money with high certainty of achieving this.

7 Maidstone Integrated Transport Package Phase 2

The Board received a report from Rhiannon Mort and a presentation from Steer Davies Gleave, the purpose of which was to make the Board aware of:

1. The latest position in relation to the delivery of Maidstone Integrated Transport Package (the Project) Phase 1; and
2. The value for money assessment for the Phase 2 Project (the Project) which has been through the Independent Technical Evaluator (ITE) review process, to enable £2.7m Local Growth Fund (LGF) to be devolved to Kent County Council for Phase 2 Project delivery.

Resolved:

1. **To Note** that Maidstone ITP Phase 1 is currently being reviewed by Kent County Council following objections to the scheme being received.

2. **Option 1** – Approve the award of £2.7m LGF to support the delivery of the Phase 2 Project identified in the Business Case and which has been assessed as presenting high value for money but with low certainty of achieving this.

8 Kent Sustainable Interventions Programme Update

The Board received a report from Lee Burchill, KCC LGF Programme Manager. The purpose of the report was to make the Board aware of the latest progress in the delivery of the annual programme of works covered under the Kent Sustainable Interventions Programme (KSIP) (the Programme).

Resolved:

1. **To note** the progress of the KSIP programme and the individual schemes that have been delivered each year.

2. **To note** that the following schemes which will not be taken forward as part of the Programme, will result in a total of £270,000 LGF being available for alternative investment:
 - a. Access Improvements for Aylesford Station - Footway Improvements (2015/16 - £50,000);
 - b. The Meads, Grove Park to London Road (2015/16 - £70,000);
 - c. Schools Cluster to Folkestone Harbour Cycle Improvements (2016/17 - £150,000).

3. **To note** the availability of £139,000 LGF under spend from the following four projects:
 - a. Howards Avenue, cycle improvements (£13,000);
 - b. South Street, Deal - bus hub improvements (£4,000);
 - c. Homes Garden, Dartford – cycle improvements (£26,000); and
 - d. Forward design of future KSIP schemes (£96,000)

4. **To note** the reallocation of £409,000 LGF from the schemes identified in 2.2 and 2.3 as a further allocation to the following schemes:
 1. Sittingbourne Town Centre cycle signing improvements (£12,000);
 2. Cinque Ports Phase 1 cycle improvements - Folkestone to Hythe (£90,000);

3. Tonbridge Angels to Station Cycle Improvements Phase 1 (£167,000)
4. Thames Greenway – Public Rights of Way - Forward Design (£41,000);
5. Tunbridge Wells Junction Improvements Phase 2 – A26 Cycle Route Forward design (£63,000);
6. A21 Non-Motorised User Scheme – via Pembury Road – Forward Design (£36,000)

9 Kent Strategic Congestion Management Programme – Update

The Board received a report from Lee Burchill, KCC LGF Programme Manager. The purpose of the report was to make the Board aware of the latest progress in the delivery of the annual programme of works covered under the Kent Strategic Congestion Management Programme (KSCMP) project (the Programme).

Resolved:

1. **To note** the progress of the Programme and the individual schemes that have been delivered each year.

2. **To note** that the following schemes will not be taken forward as part of the Programme, which will result in a total of £242,000 being available for alternative investment: Under the terms of the Assurance Framework, this variance is within tolerances for the Partner authority to redeploy without requiring Accountability Board approval.
 - a. A229 Bluebell Hill approach and northbound off-slip towards the Taddington roundabout - M2 Junction 3 (2015/16 - £102,000)
 - b. A229/A274 Wheatsheaf Junction Improvements (2015/16 - £40,000).
 - c. A229 Loose Road, Armstrong Road and Sheal's Crescent Junction Improvements in Maidstone (2016/17 - £100,000)

3. **To note** the funding of £242,000 LGF from the withdrawn schemes highlighted in 2.2 was applied to the following approved scheme:

The Highways Management Centre (HMC) Technology Refresh project
2015/16

10 Sandwich Rail Infrastructure

(Information contained within a confidential appendix was taken into account in reaching a decision on this issue (minute 19 below refers)).

The Board received a report from Stephanie Holt-Castle Head of Countryside, Leisure and Sport, Kent County Council and Stephen Gasche Principal Transport Planner – Rail, Kent County Council which was presented by Rhiannon Mort. The purpose of the report was to provide the Board with an update on detailed developments of the Sandwich Rail Infrastructure Project (the Project) since the South East Local Enterprise Partnership (SELEP) approved the inclusion of the Project in the Local Growth Fund (LGF) programme and approved the award of £1,025,745 to the Project in November 2017.

Resolved:

1. **To Note** the updated position concerning the Open Golf Championship – Sandwich Rail Infrastructure Project.

2. **To Approve** the re-allocation of £877,425 from Ashford Spurs under spend to the Project, subject to:
 - a. The underspend from the Ashford Spurs project being confirmed by Kent County Council (KCC);
 - b. Confirmation from The R&A that the Open Golf Championship will be hosted at Royal St George's on at least two further occasions by 2036, on a 7-8 year cycle;
 - c. Written confirmation from the Department for Transport, The R&A and Network Rail that their funding contributions have been committed.

11 Rochester Airport LGF progress update report

Mr McLennan, a member of the public, was present and advised the Board that he would be taking a video recording of the Board's consideration of this particular item. He was unable at this stage to clarify the exact intention of his use of the recording.

The Board received a report from Helen Dyer, Senior LGF Programme Co-ordinator, Medway Council, Lucy Carpenter, Principal Regeneration Project Officer, Medway Council and Janet Elliott, Regeneration Programme Manager, Medway Council which was presented by Richard Hicks, Deputy Chief Executive Medway Council, who also presented a PowerPoint presentation. This was followed by a presentation by Steer Davies Gleave.

The purpose of the report was to make the Board aware of the latest progress on

the Rochester Airport project phases 1 and 2 (the Project). The funding award of £4.4m Local Growth Fund (LGF) for phase 1 of the Project was approved by the Board on 10th June 2016. The Business Case for Phase 2 of the Project has not yet been submitted for Gate 1 review by the Independent Technical Evaluator (ITE), but has been provisionally allocated £3.7m LGF.

Resolved:

1. **To Note** the update on the Rochester Airport LGF Phase 1 project
2. **To Agree** the change to the proposed Phase 1 Project outputs as set out in Table 2
3. **To Note** the proposed timetable for bringing forward the Business Case for the LGF3 project (Phase 2).
4. **To Note** the proposed programme for delivering both LGF funded phases of the Project.

12 A13 Widening Update Report

The Board received a report from Paul Rogers, Programme Manager Major Schemes, Thurrock Council, which was presented by Stephen Taylor, Thurrock Council. The purpose of the report was to provide the Board with an update on the A13 widening project (the Project).

Resolved:

To Note the update report.

13 Capital Programme Management of the Local Growth Fund

The Board received a report from Rhiannon Mort, the purpose of which was for the Board to consider the latest position of the Local Growth Fund (LGF) Capital Programme, as part of SELEP's Growth Deal with Government.

Resolved:

- - 1. **To Note** the provisional outturn position for LGF spend in 2017/18
 - 2. **To Note** the updated LGF spend forecast for 2018/19
 - 3. **To Note** deliverability and risk assessment
 - 4. **To Approve** the acceleration of LGF spend in 2018/19 for the following five projects:
 - 4.1. A414 Pinch Point Package (£487,000)
 - 4.2. A131 Braintree to Sudbury (£630,000), subject to LGF award under Agenda Item 5
 - 4.3. M11 Junction 8 Improvements (£900,000)
 - 4.4. Kent and Medway Growth Hubs (£618,000)
 - 4.5. A226 London Road/ B255 St Clements Way (£535,000)
- - 5. **To Approve** the re-profiling of LGF spend from 2018/19 to future

years of the growth deal programme for the following twelve projects:

- 5.1.A131 Chelmsford to Braintree (£750,000)
- 5.2.A414 Harlow to Chelmsford (£630,000)
- 5.3.Chelmsford City Growth Area (£1.500m)
- 5.4.A28 Chart Road (£3.238m)
- 5.5.Ashford International Rail Connectivity Project (£1.161m)
- 5.6.A289 Four Elms Roundabout (£275,000)
- 5.7.Rochester Airport Phase 1 (£2.903m)
- 5.8.Rochester Airport Phase 2 (£310,000)
- 5.9.Southend Airport Business Park Phases 1 and 2 (£3.627m)
- 5.10.London Gateway/Stanford le Hope (£2.705m)
- 5.11.A127 The Bell (£3.040m)
- 5.12.A13 Widening (£13.323m)
-

14 **Growing Places Fund Update**

The Board received a report from Rhiannon Mort, the purpose of which was to update the Board on the latest position of the Growing Places Fund (GPF) Capital Programme.

Resolved:

To Note the updated position on the GPF programme.

15 **SELEP Assurance Framework Implementation Update**

The Board received a report from Adam Bryan, the purpose of which was to make the Board aware of:

1. The progress which has been made by the South East Local Enterprise Partnership (SELEP) team and the federal areas in implementing the changes necessitated by the refreshed Assurance Framework. *The Board is reminded that it is accountable for assuring that all requirements are implemented; it is a condition of the funding that the Assurance Framework is being implemented.*

2. The progress made against the Governance and Transparency Performance Indicators.

Resolved:

1. **To Note** the progress to date in implementing the SELEP 2018/19

Assurance Framework.

2. **To Note** the SELEP team and federated area progress to implement the:

2.1 Mary Ney recommendations; and
2.2 Ministry of Housing, Communities and Local Government (MHCLG) Deep Dive recommendations.

3. **To Note** the progress made against the Governance and Transparency Performance Indicators.

16 **First Quarter Update on SELEP Revenue Budget 2018-19**

The Board received a report from Suzanne Bennett, the purpose of which was for the Board to consider the first quarter forecast of revenue outturn for 2018/19; including the establishment of budgets for specific revenue grants and the withdrawal from the general reserve of monies earmarked to support the Growth Hub programme.

Resolved:

- 1 **To Approve** the revenue budgets for specific grants (detail can be seen at Tables 1,2,3,4,5,6 and 7 of the report);
- 2 **To Approve** a withdrawal of **£85,000** from the general reserve to support the Growth Hub programme in 2018/19; and
- 3 **To Note** the current forecast **over spend** of **£14,000** against total revenue budget for 2018/19, which would become an **under spend** of **£71,000** if the withdrawal from reserves above is agreed.

17 **Date of Next Meeting**

The Board noted that the next meeting will take place on Friday 14th September 2018 at High House Production Park.

There being no urgent business the meeting closed at noon

18 **Exclusion of the Press and Public** **Resolved:**

That the press and public be excluded from the meeting during consideration of the remaining item of business on the grounds that it involves the likely disclosure of exempt information as specified in paragraph 3 of Schedule 12A of the Local Government Act 1972 (Information relating to the financial or business affairs of

any particular person.

19 Sandwich Rail Infrastructure Project - confidential appendix
(Public and press excluded)

The Board noted the Confidential Appendix to Sandwich Rail Infrastructure report, which contained information exempt from publication referred to in that report and in decisions taken earlier in the meeting (minute 10 above refers).

Chairman