

Submission 1

On 15th March 2013, SELEP approved a £6m Growing Places Fund loan to scheme promoter Sea Change Sussex for the Bexhill Business/Innovation Mall Project (BIM).

The project required the construction of the North East Bexhill Gateway Road (NEBGR) to access the Bexhill Business Mall site.

In the SELEP approved business case, Sea Change promised on [page 52](#):

"The £2.75m cost associated with the construction of the Gateway Road will be funded through a combination of secured SCS internal funds, a secured ESCC capital contribution and recently awarded Regional Growth Fund (RGF) grant funding for strategic infrastructure." [emphasis added]

This promise is repeated again on [Page 80](#).

By 25 June 2014, an East Sussex County Council Committee Report said, on [page 1](#):

"...it has become clear that the phasing of payments anticipated and relied upon by SeaChange Sussex, our delivery partner for the BIM, mean that we would be making payments in advance of or 'forward funding' expenditure. This exposes the County Council to some increased financial risk, as until such time as the project is completed the asset may not provide sufficient security." [emphasis added]

And on [page 2](#):

"Seachange Sussex maintains that failure to demonstrate, when inviting its board of directors to accept tenders for building contracts, that they hold up front all of the sums necessary to meet contractual financial obligations would result in a failure of the test of remaining a going concern. SeaChange have indicated that they are not prepared to enter into a contract unless they receive the funding in full which would of course fundamentally jeopardise delivery of the project." [emphasis added]

The ESCC Lead Member (Cllr Keith Glazier) approved unsecured 'at risk' ESCC loan funding to the value of **£4m** to Sea Change in advance of expenditure for the Bexhill Innovation Mall, to be paid back as GPF funds were drawn down by ESCC from Essex County Council quarterly in arrears.

And six-weeks later on 06th August 2014, an East Sussex County Council Committee Report said on [page 4](#):

*"The County Council has previously provided SCS with an £800k loan for the construction of the NEBGR."
"It has since come to light that SCS do **NOT** have sufficient funding currently in place to complete the road works upon the [NEBGR] road leading to the Bexhill Innovation Mall.*

"It is not possible to protect this loan by way of legal charge (as with the Bexhill Mall) as SCS does not yet own the road. There is therefore the risk that if SCS are unable to complete these works, the County's original funding and this loan may be at risk." [emphasis added]

The ESCC Lead Member (Cllr Keith Glazier) approved an additional 'at risk' ESCC loan to the value of **£2.6m** to Sea Change to construct the North East Bexhill Gateway Road and roundabout.

On 24th November 2021, in FOI response ref: 10158913, ESCC lists in [table 2 entry 6](#) the same 'at risk' £2.6m loan to Sea Change for the North East Bexhill Gateway Road.

The repayment of this loan is cross referenced to [table 1, entry 2](#) which says:

"Local Growth Fund Grant. £18.6m for the North Bexhill Access Road (NBAR).

*05 February 2016 - This included **entry 6 Table 2** [NEBGR Loan] and was recouped from the final funding award (£18.6m)" [emphasis added]*

Therefore, with the apparent knowledge and participation of East Sussex County Council Officials, Sea Change has:

- A) Failed to make the promised contribution from Sea Change internal funds to the Bexhill Business Mall Project, to fund the North East Bexhill Gateway Road (NEBGR).
- B) Borrowed £2.6m 'at risk' from ESCC in August 2014 to construct the North East Bexhill Gateway Road (NEBGR).
- C) Then in February 2016, repaid this £2.6m loan to ESCC from the SELEP LGF public grant monies approved for a **DIFFERENT** project - the North Bexhill Access Road Project (NBAR).
- D) Then returned to SELEP in February 2018 to request £2m additional funding to complete the North Bexhill Access Road Project (NBAR), on the pretext of 'unforeseen increased project costs'. (The NBAR Project remains incomplete and Sea Change has fully spent all of the LGF grant monies)

On 04th May 2022, the SELEP & Essex County Council FOI response ECC12562104 04 22 (attached) says:

*"**NO** approval decision has been made either by SELEP or Essex County Council [to agree Sea Change would **NOT** deliver the North East Bexhill Gateway Road from the company's own internal funds, as per the Bexhill Business Mall business case]"*

*"A decision has **NOT** been made by the [SELEP Accountability] Board to enable the LGF allocated to the [NBAR] Project to be used for the purpose of repayment to ESCC for an unsecured loan ESCC had made to Sea Change Sussex."*

*"**NO** LGF has been awarded to support delivery of the Bexhill Business Mall Project or the Northeast Bexhill Gateway Road."*

"ESCC have confirmed in their reporting of spend of LGF on delivery of the North Bexhill Access Road Project that spend equivalent to the full £18.6m of LGF awarded, has been applied by Sea Change Sussex in delivering the [NBAR] Project." [emphasis added]

Will the SELEP Accountability Board please confirm:

1) That SELEP will claw-back this £2.6m taken from the NBAR LGF public grant monies for **other** than the approved purpose, and without any requisite LEP approvals?

2) What actions have been taken by SELEP and the Accountable Body since 04 May 2022, when their FOI response acknowledged that they were now aware of these serious irregularities in both LGF grant management and financial reporting by Sea Change and ESCC?

Response:

Without commenting on the statements or characterisation in your email, the responses to your questions are as follows:

Question 1:

The Accountability Board did not make a decision to enable the LGF allocated to the North Bexhill Access Road project to be used for the purpose of repayment to East Sussex County Council for an unsecured loan made to Sea Change Sussex. However, East Sussex County Council have confirmed in their reporting of spend of the LGF on delivery of the North Bexhill Access Road project that spend equivalent to the full £18.6m of LGF awarded, has been applied by Sea Change Sussex in delivering the project. On this basis, SELEP will not be seeking to claw back any of the LGF funding awarded to the project.

Question 2:

Since May 2022, SELEP and the Accountable Body have taken the following actions:

- the structure of the reporting provided to the Accountability Board on the LGF and Getting Building Fund (GBF) programmes has been amended to more clearly differentiate between projects which have completed spend of their SELEP funding and those which have been fully delivered in accordance with their approved Business Cases.
- continued engagement with a Deep Dive focussed on a number of the Sea Change Sussex Local Growth Fund projects which is currently being undertaken by the Department for Levelling Up, Housing and Communities.
- progressing plans for an audit of projects which have received funding through the SELEP Capital Programme. This audit will extend across all SELEP capital funding streams and will involve all local partner authorities.
- introduced regular calls between the Accountable Body and senior officers at both SELEP and East Sussex County Council.
- new templates have been built into reports to the Accountability Board on High Risk projects which focus on highlighting the risks faced by the projects and progress towards achieving the required milestones to reach project completion.

Submission 2

Following SELEP's Response (Combined Question 2 and 3 response – Minute 7 in the Summary of Decisions of the Accountability Board on 23rd September 2022), that East Sussex County Council (ESCC) is responsible for completion for this project, Sea Change Sussex (SCS) has refreshed its earlier offer to ESCC

to manage the last works connecting the Queensway Gateway Road (QGR) with all costs in excess of the £10 million received from LGF to date, to be met by ESCC.

SCS would ask SELEP what measures it can take to ensure that ESCC funds this project to completion in line with their Service Level Agreement.

This project is substantially complete along its length of over 500m (half a kilometre) with only junction improvements at its connection to the A21 including associated kerbing, adjacent 3 metre road widening on the west side of the A21, traffic lights installed and a cycleway to be completed.

SCS believes that this project can be completed within the £15 million budget that was approved by SELEP and its Independent Technical Adviser on 20th March 2016.

Response:

All Upper Tier Local Authorities within the SELEP region have committed to complying with the requirements of the SELEP Assurance Framework. In addition, there are Service Level Agreements in place between each Upper Tier Local Authority, South East LEP Limited and Essex County Council (as Accountable Body for SELEP).

The Service Level Agreement in place between East Sussex County Council (the Council), South East LEP Limited and Essex County Council (as the Accountable Body for SELEP) places the following responsibilities on the Council:

- Responsibility for ensuring delivery of the LGF Projects, and the outputs and outcomes agreed in the respective Business Cases.
- Responsibility for all costs in excess of the LGF allocation, for example overspends, arising from the implementation of the projects.

Submission 3

Consistently members of both the SELEP Secretariat and this Accountability Board have stressed the importance of transparency in the execution of the affairs of SELEP. Indeed in recent times some difficult public questions have been unflinchingly addressed at Accountability Board meetings. It is of concern to this questioner that trust placed in the acceptance of the answers provided can then be under-mined by subsequent events. The Policy for Public Questions to the SELEP Accountability Board includes a section on the Scope of Questions among which it states that: “The question must be about a matter for which the Accountable Body has powers or duties and the question maybe rejected if it is substantially the same as a question put to a meeting in the previous six months”.

Over the past 12 months several separate questions have been put on aspects of projects awarded funding by SELEP with the Upper Tier Authority being East Sussex County Council and Sea Change Sussex being the Scheme Promotor. Following on from these questions the reporting of project progress reporting has been amended so that a project is no longer recorded as being complete simply because the awarded funding has been spent. Perhaps unsurprisingly, projects are now only recorded as complete when they have actually completed what they were awarded the funding for in the Business Case.

Following this clarification two of the East Sussex County Council/Sea Change Sussex projects were reclassified as Construction in Progress or Project in progress. Yet with all this reclassification clarification, the North Bexhill Enterprise Park was recorded as ‘LGF Project Delivered’ this summer only to have the classification amended to ‘Project in Progress’ by the Accountable Body’s Section 151 Officer this month. This suggests a continuing breakdown in the substance of reporting by the Upper Tier Authority.

The significance of this is reflected in this question.

In response to previous questions the Board has stated that for all projects funded a Service Level Agreement is in place between Essex County Council (as Accountable Body for SELEP), South East LEP Ltd and the relevant Upper Tier Authority within the LEP area and is a legal document and includes (in these specific cases) the following obligations:

East Sussex County Council accepts responsibility for ensuring delivery of the project and the outputs and outcomes agreed in the approved project Business Case.

The Project Allocation (i.e.LGF Funding Award) is a capped contribution per project. The Council is responsible for all additional costs, for example overspends, arising from the implementation of the project.

East Sussex County Council is required to have a back-to-back Service Level Agreement with the Scheme Promotor/Contractor which mirrors the contract terms of the SLA between East Sussex County Council and SELEP/ Accountable Body.

The Queensway Gateway Road project is still in an indisputably incomplete state.

At the last Accountability Board meeting Sea Change Sussex made statements and asked questions which clearly disputed the contents of reports made by East Sussex County Council dating back to 2015. Since the September Accountability Board meeting, Sea Change Sussex have embarked on a Press Campaign repeating and amplifying these statements. I refer specifically to a front page (running over 3 pages) article in Hastings Independent Press and in particular to this quote made by Sea Change Sussex:

“On the matter of funding, our grant agreement requires us to complete the funded works - which we have done. There’s no obligation on us to deliver further elements of the project unless we enter into an additional agreement to do so, with further funding to cover that.”

This statement is incompatible with the responses previously given to me by the SELEP Accountability Board and does not reflect what I have been told is in the SLA between ESCC and Sea Change Sussex. In response East Sussex County Council issue their now standard response that they are working hard to get the Road completed and open.

Question: In view of the potential reputational damage to SELEP by the Sea Change Sussex claims (and bearing in mind East Sussex County Council is a member/shareholder in Sea Change Sussex) can the SELEP Accountability Board confirm, without caveat, that:

- a) East Sussex County Council has accurately reported to the Accountability Board the true position on this project from inception - including all budget reduction and cost reduction savings and increments /engineering design changes and the contents of the signed SLA.
- b). The Board does not concur with the allegations made in the Press Statements issued by Sea Change Sussex.
- c). The SELEP Accountability Board are satisfied East Sussex County Council does have a back-to-back service level agreement in place with Sea Change Sussex with mirrored contract terms of the SLA between SELEP/SELEP Accountable Body and East Sussex County Council which includes provisions for funding all overruns.
- d). As neither East Sussex County Council nor Sea Change Sussex consider the signalled connection requires a Project Change case to be presented to the Accountability Board will the Board confirm the existing terms of the SLAs between all Parties still apply in its entirety.
- e). By the next Accountability Board revised completion dates will be provided without fail for the Projects, namely North Bexhill Access Road and Bexhill Enterprise Park, East Sussex Strategic Growth Project, Queensway Gateway Road and Bexhill Enterprise Park North.

Response:

Not all points raised within your question are in the control of the Accountability Board and, where this applies, assurances have been sought from East Sussex County Council under the terms of the Service Level Agreement.

Part a – The Service Level Agreement in place between each Upper Tier Local Authority partner (the Council), SELEP Ltd. and Essex County Council (as Accountable Body for SELEP) places the following obligations on the Council:

The Council is responsible for providing regular reports to the Accountable Body and the SELEP Secretariat in the timescales and format specified by the SELEP Secretariat, to enable quarterly reporting to the Accountability Board and Government.

The Service Level Agreement requires provision of information in relation to spend of the LGF funding allocation, total project spend to date (including match funding), project delivery against agreed milestones, outputs and outcomes forecast and delivered to date, identification of project risks and mitigation measures to be put in place, confirmation of expected project completion date and identification of any required Changes to projects.

Given the scale of the Capital Programme, there is insufficient capacity within the SELEP team to independently verify the information provided by all six Upper Tier Local Authority partners and therefore, reliance is placed on our local authority partners to provide accurate and complete reporting on their projects in line with their obligations under the Service Level Agreement.

Part b – East Sussex County Council have confirmed that they have a grant agreement with Sea Change Sussex which provides back-to-back obligations which require Sea Change Sussex to deliver the road in accordance with the Business Case.

Part c - East Sussex County Council have confirmed that they have a grant agreement with Sea Change Sussex which provides back-to-back obligations which require Sea Change Sussex to deliver the road in accordance with the Business Case.

East Sussex County Council have respectfully requested that any questions relating to the relationship between themselves and Sea Change Sussex would be a matter for the parties involved to consider.

Part d – The Service Level Agreement in place between East Sussex County Council, SELEP Ltd and Essex County Council (as Accountable Body for SELEP) sets out the following definition of Change:

Change: means the occurrence of any one of the following:

- a) cancellation of a project which has received a provisional funding allocation in the agreed Growth Deal*
- b) inclusion of a new project within the Local Growth Fund (LGF) programme, which has been identified within SELEP Ltd's pipeline*
- c) acceleration of a project previously programmed to start in later years*
- d) delays to project start or end dates of more than six months*
- e) all changes to project LGF allocations above the 10% threshold*
- f) any re-profiling of LGF between financial years*
- g) any changes to total project costs above 30% of a £500,000 threshold which are identified prior to the construction contract award*
- h) any substantial changes to the expected project benefits, outputs and outcomes as agreed in the business case which may detrimentally impact on the value for money assessment. In such circumstances, it is expected that the business case should be re-evaluated by the ITE*
- i) any further changes as may be defined by the Government.*

The SELEP Assurance Framework states that these changes must be approved by the Accountability Board before they are implemented.

If the proposed signalised connection is adopted as the final design for the junction, information will be sought from East Sussex County Council to establish whether this approach represents a Change as defined above.

It is acknowledged by SELEP in the November 2022 Accountability Board Agenda Pack that the implementation of a signalised connection does not necessarily equate to a change in project scope compared to that set out in the approved Business Case but it is important that, given the time that has

passed since the submission of the original Business Case (February 2015), that the benefits offered by the scheme are revisited and assurances provided that the Project continues to offer High value for money.

There is an ongoing obligation to comply with the terms of the Service Level Agreement which is in place between East Sussex County Council, SELEP Ltd. and Essex County Council and the full terms of the agreement will continue to apply.

Part e – East Sussex County Council are required to provide updates on the North Bexhill Access Road and Bexhill Enterprise Park, East Sussex Strategic Growth Package, Queensway Gateway Road and Bexhill Enterprise Park North projects as part of the standard quarterly reporting process. In accordance with the Service Level Agreement, this reporting should include confirmation of the expected project completion date. This information will be fed into the agenda pack for the March 2023 Accountability Board meeting and will include anticipated project completion dates where this information is provided.