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## Summary of decisions taken at a meeting of the SELEP Accountability Board, held in Castalia Room, The Nucleus, Brunel Way, Dartford, Kent, DA1 5GA on Friday, 25 November 2022

Published on Friday 25<sup>th</sup> November 2022. Provided a decision has not been called in by close of business on Wednesday 30<sup>th</sup> November 2022 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 Tuesday 13<sup>th</sup> December 2022.

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### Present:

Sarah Dance	Chair
Cllr Lesley Wagland	Essex County Council
Cllr Roger Gough	Kent County Council
Cllr Keith Glazier	East Sussex County Council
Cllr Rodney Chambers (until Item 16 only)	Medway Council
Cllr Stephen George	Southend-on-Sea City Council
Cllr Deborah Arnold	Thurrock Council
Rosemary Nunn (virtual attendance)	Higher Education representative
Simon Cook	Further Education/Skills representative

### 1 Welcome and apologies for absence

- Cllr Mark Coxshall substituted by Cllr Deborah Arnold
- Cllr Kevin Bentley substituted by Cllr Lesley Wagland

### 2 Minutes of the previous meeting

The minutes of the meeting held on Friday 23<sup>rd</sup> September 2022 were agreed as an accurate record.

### 3 Declarations of Interest

Cllr George declared a non-pecuniary interest in respect of agenda items 8 and 9, in that his brother-in-law sits on the Board at Sanctuary Housing.

#### 4 Questions from the public.

Adam Bryan, Chief Executive Officer SELEP advised the Board that three Public Questions had been received. Two of the Public Questions consist of more than one question.

In accordance with the Public Question Policy, and in light of feedback from the Board provided at the last meeting, he advised that there would only be a response to one question from each person/organisation provided during the meeting.

A written response to the remaining questions will be provided within 10 working days of the meeting and the responses will be published on SELEP's website.

##### **Public Question: Submission 1 (Anonymous)**

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:**

**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.

**Public Question: Submission 2 - East Sussex energy Infrastructure and Development Limited (trading as Sea Change Sussex)**

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.

**Public Question: Submission 3 - Bernard Brown**

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:**

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.

## 5 Getting Building Fund update

The Accountability Board (the Board) received a report and an addendum from Helen Dyer, SELEP Capital Programme Manager, the purpose of which was for the Board to consider the overall position of the Getting Building Fund (GBF) capital programme. The report included an update on those projects which have received approval for retention of GBF funding beyond March 2022 and provided an update on GBF spend to date.

**Resolved:**

1. **To Note** the current reported spend across the GBF programme for the 2022/23 financial year of £21.213m, as set out in Table 1 of the report.
2. **To Agree** the reported GBF spend on project delivery in Q1 and Q2 2022/23 of £6.197m, as set out in Table 1 and Appendix A of the report.
3. **To Note** the deliverability and risk assessment, as set out in Appendix C of the report.

In respect of the **Techfort project**:

1. **To Agree** that the project meets the requirements previously agreed by the Board for all projects retaining their respective GBF funding allocations beyond 31 March 2022; and
2. **To Agree** that the GBF funding allocation can be retained against the project for a further maximum period of 3 months (to 31 March 2023), subject to Strategic Board endorsement in December 2022.

## 6 GBF Funding Decisions

The Board received a report from Howard Davies, SELEP Capital Programme Officer, the purpose of which was for the Board to consider the award of £659,953 Getting Building Fund (GBF) to two projects in accordance with the new GBF prioritised project pipeline.



**Resolved:**

1. **To Agree** the award of an additional £359,074 GBF to Essex County Council for the Extension of full-fibre broadband rollout in Essex to reach rural and hard to reach the premises project, subject to receipt of S151 Officer sign off from Essex County Council.
2. **To Agree** the award of an additional £300,879 GBF to Essex County Council for the Jaywick Market and Commercial Space project, subject to receipt of S151 Officer sign off from Essex County Council.

**7 Getting Building Fund funding decisions and extension requests**

The Board received a report from Helen Dyer, the purpose of which was for the Board to consider the award of £2,657,547 Getting Building Fund (GBF) to six projects in accordance with the new GBF prioritised project pipeline.

**Resolved:**

1. **To Agree** the award of an additional £400,000 GBF to Medway Council for the Innovation Park Medway – Sustainable City of Business project and agree that the GBF funding can be retained against the project beyond March 2022 for a maximum period of 12 months to 31 March 2023.
2. **To Agree** the award of an additional £875,000 GBF to Kent County Council for the Thanet Parkway Railway Station project and agree that the GBF funding can be retained against the project beyond March 2022 for a maximum period of 12 months to 31 March 2023.
3. **To Agree** the award of an additional £235,728 GBF to Kent County Council for the Javelin Way Development project, and agree that the GBF funding can be retained against the project beyond March 2022 for a maximum period of 12 months to 31 March 2023.
4. **To Agree** the award of an additional £331,819 GBF to Essex County Council for the Tindal Square, Chelmsford project, subject to receipt of S151 Officer sign off from Essex County Council and agree that the GBF funding can be retained against the project beyond March 2022 for a maximum period of 12 months to 31 March 2023.
5. **To Agree** the award of an additional £315,000 GBF to East Sussex County Council for the Observer Building, Hastings project, and agree that the GBF funding can be retained against the project beyond March 2022 for a maximum period of 12 months to 31 March 2023.
6. **To Agree** the award of £500,000 GBF to Thurrock Council for the ASELA LFFN Phase 3 project which has been assessed as offering High value for money with a Medium certainty of achieving this, and agree that the GBF

funding can be retained against the project beyond March 2022 for a maximum period of 12 months to 31 March 2023.

## 8 Better Queensway Update

The Board received a report from Helen Dyer and Catherine Cummings, Southend-on-Sea City Council, the purpose of which was for the Board to receive an update on the Better Queensway Getting Building Fund (GBF) project (the Project), which has been identified as High risk.

### Resolved:

1. **To Note** the update on delivery of the Project
2. **To Agree** that a further update on the Project which confirms the status of the merger between Swan Housing and Sanctuary Housing Association, provides an update on project delivery and provides assurances regarding the ongoing delivery of the wider project should be provided at the March 2023 Board meeting.

## 9 Swan Modular Housing Factory Update

The Board received a report from Paul Chapman, Principal Economic Growth Officer, Essex County Council and Helen Dyer, the purpose of which was to update the Board on the Swan Modular Housing Factory Getting Building Fund (GBF) project (the Project) which has been identified as High risk.

### Resolved:

1. **To Note** the update on delivery of the Project.
2. **To Agree** that a further update on the Project which confirms the status of the merger between Swan Housing and Sanctuary Housing Association, provides an update on project delivery and provides assurances regarding the ongoing realisation of forecast project benefits should be provided at the March 2023 Board meeting.

## 10 Local Growth Fund Programme Update

The Board received a report from Helen Dyer, the purpose of which was for the Board to consider the overall position of the Local Growth Fund (LGF) capital programme, as part of SELEP's Growth Deal with Government.

### Resolved:

1. **To Agree** the updated total planned LGF spend on project delivery in 2022/23 of £17.312m excluding DfT retained schemes and increasing

to £17.636m including DfT retained schemes, as set out in Table 2 and Appendix A of the report.

2. **To Agree** the reported LGF spend on project delivery in Q1 and Q2 2022/23 of £7.920m, as set out in Table 1 and Appendix A of the report.

3. **To Note** the deliverability and risk assessment, as set out in Appendix D of the report.

4. **To Note** the list of outstanding post scheme completion Monitoring and Evaluation reports, as set out in Appendix G of the report.

## 11 London Gateway/Stanford-le-Hope LGF project update

The Board received a report from Keith Rumsey, Thurrock Council and Howard Davies, the purpose of which was for the Board to receive an update on the delivery of the London Gateway/Stanford le Hope Local Growth Fund (LGF) project (the Project), which has been identified as High risk.

### Resolved:

1. **To Note** the update on delivery of the Project.

2. **To Note** that a request for an extension to the deadline for consideration of the revised Business Case for the Project will be presented at the March 2023 Board meeting.

3. **To Note** that a further update on delivery of the Project will be brought to the March 2023 Board meeting and will include an update on the planned delivery programme.

## 12 Beaulieu Park Station Project Update

The Board received a report from Gary Macdonnell, Network Coordinator, Essex County Council and Howard Davies, the purpose of which was for the Board to receive an update on the Beaulieu Park Station Local Growth Fund (LGF) project (the Project) which has been identified as High risk.

### Resolved:

1. **To Note** the update on the Project and the risks to project delivery which have been identified.

2. **To Note** a further update will be brought to the March 2023 Board meeting which will include an update on the decoupling of the two HIF projects included within the Homes England funding agreement (if applicable) and the status of the required rail possessions.

**13 Queensway Gateway Road update**

The Board received a report from Richard Dawson, Head of Service - Economic Development, Skills and Infrastructure, East Sussex County Council and Helen Dyer, the purpose of which was for the Board to receive a further progress update on the delivery of the Queensway Gateway Road Local Growth Fund (LGF) project (the Project).

**Resolved:**

1. **To Note** the latest update position on the delivery of the Project.
2. **To Agree** that the Board will be provided with a further update on the Project, at its meeting on 10 March 2023.

**14 Grays South Update**

The Board received a report from Kevin Munnelly, and Howard Davies, the purpose of which was for the Board to receive an update on the delivery of the Grays South Local Growth Fund (LGF) project (the Project), which has been identified as High risk.

**Resolved:**

1. **To Note** the latest position in the delivery of the Project and the steps that will be taken to secure successful delivery.
2. **To Agree** that the Board will be provided with a further update on the Project, which updates the project delivery plan and associated milestones, at its meeting in March 2023.

**15 LGF High Risk Projects Update**

The Board received a report from Howard Davies, the purpose of which was for the Board to receive an update on the delivery of the following Local Growth Fund (LGF) projects which are currently ranked as high risk: A13 Widening and A28 Sturry Link Road.

**Resolved:**A13 Widening

1. **To Note** the update on the project

2 **To Note** that a further update will be brought to the March 2023 Board meeting.

A28 Sturry Link Road

1. **To Note** the update on the project
2. **To Note** that a further update will be brought to the first Board meeting in 2023/24.

**16 Growing Places Fund Update**

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

**Resolved:**

- 1 **To Note** the updated position on the GPF programme.
- 2 **To Note** the update on the Centre for Advanced Engineering project and the risk to the agreed repayment schedule.
- 3 **To Note** that the expected proposed revised repayment schedule for the Eastbourne Fisherman's Quayside and Infrastructure Development project will now not be forthcoming until the March 2023 Accountability Board meeting as additional time is required for more work to be undertaken to further develop the proposed revised repayment mechanism and schedule.

**17 Finance Update**

The Board received a report from Lorna Norris, Senior Finance Business Partner, the purpose of which was for the Board to consider the update to the 2022/23 budget including specific grants. In addition, a proposed budget for 2023/24 is recommended for approval, based on current knowledge of funding available in 2023/24.

**Resolved:**

1. **To Approve** the updated 2022/23 SELEP revenue forecast budget set out in Table 1, including the specific funds summarised in Table 3 of the report.
2. **To Approve** the appropriation of £192,000 of the Sector Support Fund to the Operational Reserve to support the on-going operations of SELEP.
3. **To Approve** the revenue budget for 2023/24 set out in Table 6 of the report including the appropriations in reserves, as set out in Table 7 of the report.
4. **To Note** the on-going uncertainty from Government regarding the future funding position for SELEP beyond 2022/23.

**18 Operations Update**

The Board received a report from Amy Ferraro, SELEP Governance Officer which was presented by Adam Bryan, the purpose of which was for the Board to be updated on the operational activities carried out by the Secretariat to support both this Board and the Strategic Board. The report included an update on the Annual Performance Review, risk management, compliance with the Assurance Framework and performance against governance KPIs.

**Resolved:**

1. **To Note** the update on Assurance Framework compliance monitoring and Governance KPIs at Appendices A and B of the report; and
2. **To Note** the changes to the Risk Register at Appendix C of the report.

**19 Date of Next Meeting**

The Board noted that the next meeting will take place on Friday 10th March 2023, venue to be confirmed.

**20 LGF High Risk Project update- CONFIDENTIAL APPENDIX B**

The Board received LGF High Risk Project update - CONFIDENTIAL APPENDIX B

**Chair**