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<b>Report title:</b> SELEP Capital Programme – Introduction and Context Setting	
<b>Report to:</b> Accountability Board members	
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<b>SELEP Partner Authority affected:</b> All	

## 1. Purpose of report

- 1.1. The purpose of this report is to provide an overview of the context within which the SELEP Capital Programme continues to operate as steps are taken to integrate LEP activities into Upper Tier Local Authorities. The report seeks to outline ongoing Government expectations with regard to the Capital Programme and provide a reminder as to the key responsibilities placed on the LEP, Essex County Council (as the Accountable Body for SELEP), the Accountability Board and the Upper Tier Local Authorities.
- 1.2. The report also provides a brief overview of the High Risk Local Growth Fund (LGF), Getting Building Fund (GBF) and Growing Places Fund (GPF) projects which will be considered during the meeting and sets out the key decisions which are still to be made in relation to these projects at either the January or February 2024 meetings of the Accountability Board.

## 2. Intended outcomes of discussion

- 2.1. The aim of this meeting is to facilitate discussion on the High Risk projects remaining in the SELEP Capital Programme, with a view to achieving the following outcomes:
  - 2.1.1. A shared understanding of the key risks and challenges faced by each of the High Risk projects
  - 2.1.2. Each Accountability Board member having a good understanding of the remaining decisions which need to be taken prior to the dissolution of SELEP to ensure that the Capital Programme is in a strong place for handover to the Upper Tier Local Authorities
  - 2.1.3. A clear timeline established for all remaining decisions on High Risk projects
  - 2.1.4. An understanding of the steps which need to be taken and the information which needs to be provided to enable the Accountability Board to take informed, timely decisions on the High Risk projects.

## 3. Summary Position

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- 3.1. In March 2023, Central Government announced in the Annual Budget that they were minded to not provide any further core funding for LEPs after 2023/24 and that LEP functions should be integrated into Local Authorities. Following completion of an information gathering exercise, Government confirmed their 'minded to' decision in August 2023 regarding the future of LEPs.
- 3.2. This Government decision prompted the development and consideration of a number of options with regard to the future operation of SELEP and the future delivery of current LEP workstreams. This process concluded in July 2023 with the Strategic Board agreeing the full integration of LEP functions into Local Authorities by March 2024. Consequently, it is intended that from 1 April 2024, responsibility for managing the remaining SELEP Capital Programme will be transferred to the relevant Upper Tier Local Authorities.
- 3.3. The impending dissolution of SELEP places a limit on the amount of time that the Accountability Board has to make all remaining key decisions on the Capital Programme. It is important that all High Risk projects are considered by the Accountability Board to ensure that a definitive decision has been taken on each project before full integration takes place ensuring that the Capital Programme is in a strong position for handover to the Local Authorities. To this end, all High Risk projects will need to be considered by the Accountability Board during the last two scheduled Board meetings which are taking place on 12 January and 16 February 2024.
- 3.4. This report considers the LGF, GBF and GPF programmes which are currently all managed by SELEP. Table 1 below sets out a summary position for the LGF and GBF grant funding streams, including an indication as to the number of projects which remain in delivery and the level of funding which remains unspent, as reported by Local Authority partners in October 2023.

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Table 1: LGF and GBF Summary Position

Funding Stream	Local Authority	No of projects	Total allocation	Spend to date	Remaining spend	No of projects which remain in delivery
LGF	East Sussex County Council	17	£82.020m	£75.125m	£6.895m	8
	Essex County Council	31	£132.991m	£104.570m	£28.421m	6
	Kent County Council	32	£128.656m	£121.717m	£6.939m	7
	Medway Council	9	£32.440m	£32.440m	£0.000m	1
	Southend-on-Sea City Council	8	£50.315m	£50.315m	£0.000m	2
	Thurrock Council	7	£110.840m	£105.142m	£5.699m	4
	<b>Total</b>	<b>104</b>	<b>£537.261m</b>	<b>£489.309m</b>	<b>£47.954m</b>	<b>28</b>
GBF	East Sussex County Council	8	£6.092m	£6.092m	£0.000m	3
	Essex County Council	14	£25.051m	£24.539m	£0.513m	2
	Kent County Council	11	£39.639m	£39.639m	£0.000m	3
	Medway Council	2	£3.168m	£3.168m	£0.000m	2
	Southend-on-Sea City Council	3	£5.900m	£1.541m	£4.359m	2
	Thurrock Council	2	£3.100m	£3.100m	£0.000m	1
	Unallocated funding	-	£2.049m	£0.000m	£2.049m	-
	<b>Total</b>	<b>40</b>	<b>£85.000m</b>	<b>£78.079m</b>	<b>£6.921m</b>	<b>13</b>

3.5. The GPF programme is currently operated as a regional revolving loan scheme by SELEP. The current status of the GPF programme is set out in Table 2 below.

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*Table 2: Current Status of the GPF programme*

Local Authority	No of projects	Total allocation	Drawdown to date	Repayments to date	Repayments due 2023/24	Future repayments
East Sussex County Council	9	£25.487m	£23.737m	£15.890m	£3.615m	£5.982m
Essex County Council	5	£9.100m	£9.100m	£7.100m	£0.000m	£2.000m
Kent County Council	9	£21.167m	£21.167m	£4.747m	£1.600m	£14.802m
Medway Council	4	£8.609m	£8.609m	£8.159m	£0.100m	£0.350m
Southend-on-Sea City Council	1	£1.000m	£0.000m	£0.000m	£0.000m	£1.000m
Thurrock Council	1	£1.400m	£1.400m	£1.400m	£0.000m	£0.000m
<b>Total</b>	<b>29</b>	<b>£66.763m</b>	<b>£64.013m</b>	<b>£37.296m</b>	<b>£5.315m</b>	<b>£24.134m</b>

3.6. It should be noted that this report primarily focusses on those projects which are at risk of non-completion or non-delivery. There are a number of other projects within the SELEP Capital Programme which are at risk of not attracting expected follow-on investment or realising their forecast project benefits. Assurances regarding each of these projects will also need to be provided to the Accountability Board prior to the dissolution of SELEP.

#### **4. Overview of ongoing obligations**

4.1. Since the inception of the SELEP Capital Programme, work has been undertaken to strengthen the governance processes associated with the delivery of the programme. There are three key documents which form the basis of this governance:

4.1.1. The Grant Conditions issued by Government

4.1.2. The SELEP Assurance Framework (which reflects the requirements of the National Local Growth Assurance Framework)

4.1.3. The Service Level Agreements between SELEP Ltd., Essex County Council (as the Accountable Body for SELEP) and each Upper Tier Local Authority (LGF and GBF) and project specific loan agreements (GPF).

4.2. The Grant Conditions applied to each funding stream by Government are very light touch and the only requirement is that the funding must be applied lawfully to capital expenditure in accordance with the regulations made under the Local Government Act 2003. The Grant Conditions continue to apply and there has been no indication from Government that this will change.

4.3. Alongside the Grant Conditions, Government have outlined a number of funding requirements for the LGF and GBF programmes. These requirements include a

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commitment to track progress towards benefit realisation and to report this progress to Government, to follow the issued branding guidance for each funding stream and to ensure that all decisions are taken in accordance with the SELEP Assurance Framework. These requirements have been passed onto Upper Tier Local Authorities through the Service Level Agreements which are in place.

- 4.4. It is a requirement for each LEP to have a Local Assurance Framework in place which has been agreed between the LEP and the Accountable Body and which reflects the requirements of the National Local Growth Assurance Framework.
- 4.5. In light of Government's decision to not provide any core funding to LEPs after 2023/24 and their expectation that LEP functions should be integrated into Local Authorities, Government have issued some technical guidance which seeks to address key areas of existing LEP functions and obligations. This guidance indicates that the 'National Local Growth Assurance Framework will remain in force and will continue to apply up to a reasonable point before integration.'
- 4.6. The National Local Growth Assurance Framework seeks to ensure that LEPs meet required standards of governance, accountability and transparency and places a number of obligations on LEPs, including:
  - 4.6.1. Assuring that all capital investments offer High value for money
  - 4.6.2. Ensuring transparent decision making
  - 4.6.3. Identifying an Accountable Body who is responsible for overseeing the proper administration of financial affairs within the LEP in relation to public funds (this role is currently undertaken by Essex County Council)
  - 4.6.4. Establishing a mechanism through which funding can be recovered where projects are no longer able to deliver in accordance with their approved Business Case
  - 4.6.5. Establishing clear arrangements for the monitoring and evaluation of projects within the Capital Programme
  - 4.6.6. Developing a mechanism by which applications for Capital Funding can be prioritised at a SELEP level.
- 4.7. These obligations have been reflected in the SELEP Assurance Framework as required by Government.
- 4.8. Given that SELEP is continuing to manage public funds through the LGF, GBF and GPF programmes, it is essential that the requirements of the National Local Growth Assurance Framework and SELEP Assurance Framework continue to be met for as long as possible. It is important that all decisions taken on the Capital Programme, including those in relation to funding which will be issued after the dissolution of SELEP, are considered in the context of the Assurance Framework and that any potential deviations from these requirements are highlighted and considered during the decision-making process.

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- 4.9. All recommendations made to the Accountability Board will be in line with the requirements of the SELEP Assurance Framework and any deviation from these obligations will need to be robustly justified.
- 4.10. Finally, the LGF and GBF programmes are supported by Service Level Agreements which have been put in place between SELEP Ltd., Essex County Council (as Accountable Body for SELEP) and each Upper Tier Local Authority, whilst the GPF programme is supported by individual project loan agreements. These agreements seek to bring together the relevant Grant Conditions, additional requirements specified by Government and key obligations set out in the Assurance Framework.
- 4.11. The Service Level Agreements and Loan Agreements will remain in effect until such time as arrangements are made for them to be ended, which is currently planned to be when the Accountable Body responsibilities are passed onto each Upper Tier Local Authority. It is expected that the Upper Tier Local Authorities will take on the Accountable Body role from 1 April 2024.
- 4.12. In summary, the management of the Capital Programme will continue in accordance with the established process for the remainder of 2023/24.

### **5. Summary of High Risk LGF projects**

- 5.1. Eight High Risk LGF projects will be considered at this meeting:
  - 5.1.1. A289 Four Elms Roundabout to Medway Tunnel Journey Time and Network Improvements
  - 5.1.2. Grays South
  - 5.1.3. London Gateway/Stanford le Hope
  - 5.1.4. Purfleet Centre
  - 5.1.5. Queensway Gateway Road
  - 5.1.6. A28 Sturry Link Road
  - 5.1.7. A28 Chart Road and
  - 5.1.8. Beaulieu Park Railway Station.

- 5.2. A brief summary of each of the projects and any expected decisions is set out below.

#### A289 Four Elms Roundabout to Medway Tunnel Journey Time and Network Improvements - Medway

- 5.3. The project seeks to deliver improvements to the A289 Four Elms Roundabout to Medway Tunnel road link which will increase capacity, improve facilities for pedestrians, reduce congestion and improve air quality. The project will deliver additional traffic lanes, signalisation of the Four Elms Roundabout and free flow slip roads where possible.

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- 5.4. The A289 Four Elms Roundabout to Medway Tunnel Journey Time and Network Improvements project was awarded £11.1m LGF in March 2015. Subsequently, in February 2020, the Accountability Board were advised that Medway Council had been successful in securing £170m from the Housing Infrastructure Fund (HIF) to deliver a wider package of improvements which incorporated the proposed LGF works. This funding negated the need for the LGF funding and the Board agreed that the unspent LGF should be returned for reallocation to alternative projects thereby reducing the LGF allocation to £1.821m. The Board agreed that there was compelling justification for SELEP to not recover the £1.821m spent to date as it was still expected that the project would be delivered within a similar timeframe using the HIF funding.
- 5.5. In July 2023, Homes England and the Department for Levelling Up, Housing and Communities (DLUHC) took the decision to stop the HIF project and to remove the funding allocated to the project. The removal of the funding has resulted in Medway Council pausing work on both the wider scheme and the LGF specific works, whilst the Council seek alternative funding sources.
- 5.6. Decision to be taken: In September 2023, the Accountability Board agreed that ‘following the removal of the Housing Infrastructure Fund funding, the £1.821m LGF awarded to the A289 Four Elms roundabout to Medway Tunnel project can be retained against the project whilst Medway Council takes steps to identify and secure alternative funding sources to enable delivery of the project. Noting that a further update on the project will be provided at the January 2024 Board meeting.’
- 5.7. If Medway Council are unable to demonstrate that the LGF spend to date can continue to be capitalised in accordance with the Grant Conditions or that alternative funding has been secured to deliver the works set out in the LGF Business Case, the Board will be asked to agree the removal of the project from the programme. In this situation Medway Council, under the terms of their current LGF Service Level Agreement, would be required to repay the £1.821m allowing the funding to be reallocated to support delivery of alternative projects unless the Accountability Board identify a compelling reason not to recover the spend to date. This is in accordance with the LGF requirements set out in the SELEP Assurance Framework:
- 5.7.1. ‘Z.1.5. In the event of a project being cancelled from the LGF programme, the expectation is that the LGF allocation would be returned to SELEP Ltd for reinvestment in projects included in the LGF pipeline, unless a project change is approved by the Accountability Board, or the Accountability Board agree a compelling reason not to recover the LGF spend to date (assuming the expenditure remains a capital cost and continues to comply with the requirements of this Assurance Framework).’
- 5.7.2. ‘Z.1.6. In circumstances where funding received by partners can no longer meet the conditions of the grant, as set out in the relevant grant agreement or SLA, the funding must be returned to the Accountable Body as soon as reasonably possible. The Accountability Board will be responsible for its future allocation in accordance with this Assurance Framework.’

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- 5.8. The Grays South project forms part of the Grays South Regeneration Area (GSRA) scheme which consists of a number of interventions designed to support the economic and social vitality of Grays Town Centre. The LGF funding was specifically sought to support the creation of an underpass to replace the existing level crossing and for the creation of a public square at each end, designed to provide active urban spaces suited to a wide range of events, markets and similar activities.
- 5.9. The project has been awarded a total of £10.84m LGF to support delivery of the new underpass. This funding was awarded in two tranches, with the initial £3.7m awarded in February 2019 to enable further development of the project. The second tranche of £7.1m was awarded in November 2019 following submission of a Full Business Case.
- 5.10. Concerns have been raised around the budget, cost, programme and the affordability of the current scheme design and as a consequence, the Accountability Board agreed that spend of the LGF funding should be placed on hold whilst a review of the project was undertaken by Thurrock Council. LGF spend will remain on hold until it can be demonstrated that the project continues to comply with the requirements of the SELEP Assurance Framework.
- 5.11. Decision to be taken: The outcome of the review of the project will determine the decisions which need to be taken by the Accountability Board. If significant changes are proposed to the project scope, the Board will be asked to consider the ongoing status of the project within the SELEP Capital Programme. It is likely that a Project Change request will be required to support any decisions taken by the Board. The timing of the decision will depend upon the amount of time needed by Thurrock Council to develop the Change Request.

#### London Gateway/Stanford le Hope - Thurrock

- 5.12. The London Gateway/Stanford le Hope project seeks to deliver a new train station at Stanford le Hope offering increased capacity and the development of a new transport interchange which will connect rail, bus, cycle, taxi and pedestrian modes of transport at the new train station.
- 5.13. In February 2017, the Accountability Board agreed the award of £7.5m LGF to support delivery of the project. This allocation has been spent in full.
- 5.14. The project has experienced a number of challenges which have hindered progress. The primary concerns are increasing costs and uncertainty regarding the scope of the transport interchange element of the project. Due to the scale of the cost increase reported by Thurrock Council, the Accountability Board agreed that there was a requirement for submission of an updated Business Case which demonstrated that the project continued to offer High value for money and that the requirements of the SELEP Assurance Framework continued to be met.
- 5.15. An updated Business Case was submitted for consideration by the Accountability Board in September 2022, however, the Business Case did not provide the required assurances in relation to affordability and deliverability and therefore it was not possible to assure that High value for money would be achieved. Therefore, the requirement for submission of a revised Business Case remains.



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- 5.16. Decision to be taken: In June 2023, the Accountability Board agreed that ‘the updated Business Case and report for the project can be submitted for consideration at the February 2024 Board meeting. Noting that if this deadline is not met, the LGF funding will be removed from the project and will need to be returned to Essex County Council (as Accountable Body for SELEP) within 4 weeks by Thurrock Council for reallocation to alternative projects.’
- 5.17. The updated Business Case will be subject to review by the Independent Technical Evaluator and the outcome of this review will help to inform the recommendations presented to the Board regarding the ongoing status of the project within the LGF programme.

Purfleet Centre - Thurrock

- 5.18. The Purfleet Centre project is seeking to secure the comprehensive redevelopment of a 140 acre site to provide a new town centre for Purfleet featuring: c.2,500 new homes, a 600,000 sqft film and television studio complex, and supporting infrastructure including a new primary school, health centre, supermarket and community spaces within a high quality public realm. The £5m LGF funding was awarded to support the acquisition of the required land, and this element of the project has been completed and the LGF funding has been spent in full.
- 5.19. Thurrock Council have highlighted concerns regarding progress towards achieving the forecast project benefits. The lead developer, Purfleet Centre Regeneration Limited, have struggled to secure the funding needed to unlock delivery of the expected benefits despite the award of HIF funding to the project. The situation has been further complicated due to one of the major shareholders in Purfleet Centre Regeneration Limited, Swan Housing, facing significant financial challenges in recent years which have impacted on their ability to continue to engage effectively.
- 5.20. Thurrock Council are currently considering their next steps and options in relation to achieving the forecast project benefits.
- 5.21. Decision to be taken: It is important that the Accountability Board are provided with an update as to the steps which will be taken by Thurrock Council to achieve the forecast project benefits. If the options analysis currently being undertaken results in a significant reduction in forecast project benefits, this will need to be considered through the agreed Change Request process as this will have an impact on the Value for Money offered by the project. In this situation, the Board will be asked to consider the Change Request.

Queensway Gateway Road – East Sussex

- 5.22. The Queensway Gateway Road project will deliver a single carriageway road link between A21 Sedlescombe Road North and Queensway in Hastings. Construction of this road link provides access to designated employment development sites within the Bexhill Hastings Growth Corridor which would otherwise not be brought forward.
- 5.23. The project has received an LGF allocation of £10m, which has been fully spent supporting project delivery.

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- 5.24. To date, 90% of the new road has been constructed, with the remaining 10% covering improvements to the existing junction between Junction Road and the A21 which will allow the new road to operate as a through route.
- 5.25. Progress towards delivering the final connection has been slow, with concerns raised regarding the funding package required to bring forward the planned works. To date, East Sussex County Council have been unable to provide a robust programme for delivery of the remaining works. It should also be noted that the forecast employment benefits will not be brought forward until the full length of the new road is constructed and operational as this will make the employment sites more attractive to potential investors.
- 5.26. Decision to be taken: In September 2023, the Accountability Board agreed that ‘a clear delivery plan, including an indicative delivery programme, total project cost and funding package, should be provided at the January 2024 Board meeting.’
- 5.27. If East Sussex County Council are unable to bring forward the required information, options will be presented to the Accountability Board for consideration. These options will likely include the potential for the project to be removed from the LGF programme.

#### A28 Sturry Link Road - Kent

- 5.28. The Project involves the delivery of a new link road between the A291 and A28, to the southwest of Sturry, Canterbury. The LGF funding is due to contribute to the cost of constructing a bridge over the railway line and the Great Stour River, to enable traffic to avoid the Sturry level crossing and the congested road network in the area.
- 5.29. The Accountability Board approved the award of £5.9m LGF funding to the project in June 2016. Spend of the LGF funding is continuing.
- 5.30. Delivery of the project has progressed more slowly than anticipated and a number of challenges have been encountered. These challenges have included delays in securing planning consent for the new link road (although planning consent has now been secured), a lengthy procurement process to appoint a design and build contractor, extended negotiations in relation to one of the development sites which is due to financially contribute towards the delivery of the project and delays in publishing a Compulsory Purchase Order in relation to the land which needs to be acquired to facilitate project delivery.
- 5.31. Work is ongoing by Kent County Council to manage these challenges allowing the project to progress to delivery.
- 5.32. Decision to be taken: The Accountability Board have previously agreed that Kent County Council must complete the required land acquisition by 7 April 2025. As this date falls after the dissolution of SELEP, it is not expected that a further decision will be required from the Board unless a significant new risk is identified which threatens project delivery. It is, however, important that the Board are provided with an update on progress towards mitigating the risks and challenges identified in order to provide assurance that the project will progress towards delivery.

#### A28 Chart Road - Kent

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- 5.33. The project involves dualling the A28 Chart Road in both directions between the Matalan (Brookfield Road) and Tank (Templer Way) roundabouts. Delivery of the project will provide much needed additional capacity which will unlock the area for development. The project is required to enable delivery of up to 5,750 homes, up to 19,000 sqm of commercial space and four new schools on a local development site.
- 5.34. The award of £10.2m LGF funding was agreed by the Accountability Board in February 2016. Subsequently the project was placed on hold in June 2019 and unspent LGF funding was reallocated to alternative projects, thereby reducing the LGF funding allocation to £2.756m. The Board agreed that there was compelling justification for SELEP to not recover the LGF funding spent to date due to the ongoing expectation that the project would still progress to delivery in the future through Section 106 contributions.
- 5.35. To date, the trigger point for the Section 106 contributions has not been reached and therefore construction of the project has not commenced.
- 5.36. Decision to be taken: It is not expected that the Accountability Board will be required to take a further decision on the A28 Chart Road project. However, it is important that the Board are provided with an update on progress towards reaching the trigger point for the Section 106 contributions and the steps which are being taken to progress the project. This will provide the Board with some assurance that the project will be delivered in accordance with the approved LGF Business Case.

#### Beaulieu Park Railway Station - Essex

- 5.37. The Beaulieu Park project seeks to bring forward a new railway station in Chelmsford. The new station will be sited on the existing Great Eastern Main Line and will cater for growth in North Chelmsford, as well as wider growth in parts of Maldon, Braintree and Uttlesford districts which are not currently well served by rail.
- 5.38. The Accountability Board agreed the award of £12m LGF funding to support delivery of the project in February 2019. To date, none of the LGF funding has been spent.
- 5.39. Whilst work to deliver the new railway station has commenced onsite, a significant risk in relation to the funding package has been reported to the Board. In addition to the LGF funding, the project has also been awarded HIF funding to support delivery. The HIF Grant Determination Agreement between Essex County Council (as responsible Upper Tier Local Authority) and Homes England combines the Beaulieu Park project with the Chelmsford North East Bypass project, as both projects are seeking to achieve the same overall benefits. As both projects are covered by one Grant Determination Agreement, there is a risk that if one project cannot progress to delivery that the HIF funding will be removed from both projects. It has previously been reported to the Accountability Board that the Chelmsford North East Bypass project has faced some challenges which potentially threaten delivery.
- 5.40. Following conversations with Homes England, Essex County Council have indicated that proposed changes which will allow both projects to progress to delivery have been accepted. These changes will need to be formalised through a Deed of Variation to the Grant Determination Agreement before the risk can be considered to be mitigated.

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5.41. Decision to be taken: Subject to the Deed of Variation progressing as intended, it is not expected that the Accountability Board will be asked to take any further decisions on the project. However, it is important for the Board to receive confirmation that the funding risk has been mitigated. This is particularly important given that the LGF funding allocation has not yet been spent. It is expected that this confirmation will be provided at the January 2024 Board meeting.

### **6. Summary of High Risk GBF projects**

- 6.1. There is currently one GBF project which is reported to be High Risk – Better Queensway – Southend.
- 6.2. Better Queensway is an estate and town centre renewal project, seeking to transform a 5.2-hectare site to the north of Southend town centre. The project will include phased demolition of existing residential and commercial units, including four tower blocks and redevelopment to provide up to 1,669 dwellings and 7,945sqm of commercial space made up of retail, office, and community and leisure space. The project will also involve significant infrastructure and engineering work to provide a new four lane carriageway with footpath, cycle and bus facilities, which will remedy the sites severance with the High Street, provide a greater developable area, reduce pollution and improve connectivity, including important through traffic routes to the seafront.
- 6.3. The Board approved the award of £4.2m of GBF funding to support delivery of the project in November 2020 and full spend of the GBF funding allocation has been evidenced to Southend-on-Sea City Council.
- 6.4. The Better Queensway project was due to be delivered through a Joint Venture between Southend-on-Sea City Council and Swan Housing. Swan Housing have since been acquired by Sanctuary Housing Association following concerns regarding their ability to meet the Regulator for Social Housing’s governance and viability standards.
- 6.5. Sanctuary Housing Association completed a review of the project as part of their due diligence following the acquisition and made the decision to withdraw from the project. Southend-on-Sea City Council are in the process of investigating alternative options for delivery and are due to bring a further update on the project to the Accountability Board meeting in January 2024.
- 6.6. Decision to be taken: In September 2023, the Accountability Board agreed that ‘a full update on the Better Queensway project which provides information on the chosen delivery route and associated delivery timetable, the status of the GBF funding, and which contains the required assurances regarding the ongoing delivery of the wider project should be provided at the January 2024 Board meeting.’
- 6.7. If the required information and associated assurances are not received, the Accountability Board will be asked to consider whether the project should remain within the GBF programme.

### **7. Summary of High Risk GPF projects**

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- 7.1. There are currently two GPF projects which are reported to be High Risk – Barnhorn Green Commercial and Health Development and Sovereign Harbour. A brief summary of each of the projects and the expected decisions is set out below.

### Barnhorn Green Commercial and Health Development – East Sussex

- 7.2. Barnhorn Green is an allocated employment and health zone adjacent to a large housing development in Bexhill, which has been acquired by Rother District Council following a lack of interest from the private commercial development sector.
- 7.3. The ability to deliver new homes in the area has been significantly hindered by a lack of sufficient primary health provision, hence the intention to deliver a new GP surgery on the Barnhorn Green site. The project also includes the provision of new office accommodation and light industrial workspace, suitable for local business start-ups, existing business growth and which will help attract new businesses to the Bexhill area.
- 7.4. The award of £1.75m GPF to support project delivery was agreed by the Accountability Board in February 2021 but, to date, drawdown of this funding has not been sought.
- 7.5. The project is facing two key challenges:
- 7.5.1. Increasing costs which have prompted a review of the project budget.
  - 7.5.2. A need to revisit the scope of the project to ensure that it meets current demand.
- 7.6. Due to the delay in delivering the project, it is also likely that a revised credit agreement and repayment schedule will be required if the project is to remain in the GPF programme.
- 7.7. Decision to be taken: In September 2023, the Accountability Board agreed that ‘a project update, change request and proposed revised repayment schedule for the Barnhorn Green Commercial and Health Development project should be presented at the Board meeting on 12 January 2024. Noting that if this requirement is not met or the revised proposals are not approved by the Board, the project will be automatically removed from the GPF programme.’

### Sovereign Harbour – East Sussex

- 7.8. The Sovereign Harbour project was awarded £4.6m GPF in March 2014. The funding was awarded to support the delivery of high-quality office space (Pacific House) in Eastbourne.
- 7.9. Delivery of the project completed in June 2015 and, as at October 2023, Pacific House was reporting a 97% occupancy rate.
- 7.10. To date, repayments totalling £1.025m have been made against the loan. Revisions to the repayment schedule for the project have been brought forward for Accountability Board approval on three occasions, with the current repayment schedule requiring full repayment of the remaining balance (£3.575m) in 2023/24.
- 7.11. East Sussex County Council have indicated that there is a potential repayment risk associated with this project and that a revised repayment schedule may need to be brought forward for Board consideration. A High repayment risk has not been reported for the

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project since the current repayment schedule was agreed by the Accountability Board in April 2023; and therefore any change to the repayment schedule will impact upon the allocation of available GPF funding at the end of 2023/24.

- 7.12. Decision to be taken: If a revised repayment schedule is brought forward by East Sussex County Council, the required decision will be informed by a Strategic Board decision in December 2023. Should Strategic Board endorse any proposed revised repayment schedule for the project, this will be brought forward for Board consideration in January 2024.

### **8. Next steps**

- 8.1. As outlined in this report, it is important that all outstanding decisions on the High Risk projects remaining in the SELEP Capital Programme are taken by the Accountability Board in either January or February 2024. To facilitate these decisions, the following steps must be taken:
- 8.1.1. The SELEP Capital Programme team will arrange calls with officers at the relevant Upper Tier Local Authorities to discuss the more complex decisions which need to be taken by the Accountability Board. These calls will consider the information required to support the decisions, the timelines for provision of the information and the recommendations which will be presented to the Accountability Board.
- 8.1.2. The required information must be provided by the Upper Tier Local Authorities in accordance with the agreed timelines to ensure there is sufficient time for due consideration to be given to the recommendations being made to the Accountability Board and to ensure that there is sufficient time for the reports to undergo the required due diligence prior to publication.
- 8.2. Following each of the remaining Accountability Board meetings, steps will be taken to action any required changes to either the Service Level Agreements (LGF and GBF) or project specific loan agreements (GPF) to reflect the decisions taken.

### **9. Financial Implications (Accountable Body comments)**

- 9.1. Essex County Council, as the Accountable Body, is responsible for ensuring that all the SELEP funding awarded by the Board is utilised in accordance with the conditions set out by Government for use of the grants. This is managed through: funding agreements that are in place with each Partner Authority that set out the conditions of the respective grant or loan; and through the monitoring of Project delivery by the Board.

In respect of LGF, GBF and GPF, the main funding condition is as follows:

*The grant may be used only for the purposes that a capital receipt may be used for, in accordance with regulations made under section 11 of the Local Government Act 2003.*

- 9.2. In accordance with expectations from Government when the funding was awarded, LGF and GBF are operated as grant schemes, whereas GPF is operated as a recyclable loan scheme.

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- 9.3. All LGF and GBF funding has been transferred to the respective Upper Tier Local Authority (UTLA), in accordance with the decisions of the Board and under the terms of a Service Level Agreement (SLA), which makes clear that funding can only be used in line with the agreed terms. Further, the SLA requires that the Partner Authority provides regular reports to the Accountable Body and the SELEP Secretariat, to enable quarterly reporting to the Board and Government in respect of project delivery and use of funding in accordance with the agreed terms.
- 9.4. The SLA also makes clear that it is the responsibility of the respective UTLA to secure any additional funding required to support Project delivery.
- 9.5. Where Projects are not being directly delivered by the UTLA, it is required that a back-to-back agreement is in place to transfer the requirements of the SLA in addition to any local requirements that may additionally be incorporated by the UTLA.
- 9.6. GPF is transferred to the respective UTLA in accordance with the decisions of the Board through a Credit Agreement that sets out the terms of the Loan and in particular, the responsibilities of the UTLA in respect of the repayment terms.
- 9.7. It is the responsibility of the Board to ensure accountability from each of the UTLA's relating to expenditure and programme delivery; the Projects highlighted within this updated are identified as High Risk with respect to assuring delivery in accordance with the agreed Business Case. All projects identified have experienced delays in delivery timescales, including six that are identified in Appendix A with no confirmed completion date; with the intention to close SELEP and to transfer that Accountability to the respective local Partner, it is necessary that this process is supported by a clear position statement for all High Risk Projects to be agreed by the Board, to provide assurance with respect to timescales for delivery and realisation of agreed outputs and outcomes to support the anticipated economic growth.
- 9.8. Any Projects requiring a change to their agreed position prior to closure of the SELEP, will be expected to bring this forward at the planned Accountability Board meeting in January or February, in agreement with the SELEP Secretariat and the requirements of the funding agreement and the Assurance Framework. Any changes required post closure of the SELEP and the Board may require approval from Government.
- 9.9. Any changes to be considered by the Board are required to meet the requirements of the SELEP Assurance Framework, unless an exceptional decision is made by the Board and supported by the Accountable Body; in any circumstance, all expenditure of the Grant must be in accordance with all applicable legal requirements, including state aid / subsidy requirements, public procurement law and in accordance with the grant conditions.

## **10. Legal Implications (Accountable Body comments)**

- 10.1. The funding is administered in accordance with the Service Level Agreements in place between Essex County Council, as Accountable Body of SELEP, SELEP Ltd and the Partner Authority. The SLA contains provisions that permit the Accountability Board to take a decision to require funding is repaid (either in all or in part) if the Partner Authority fails to deliver the project in accordance with the business case, a project is changed and the

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Accountability Board decline to agree the change, or if the project can no longer meet the grant conditions.

10.2. Under the Framework Agreement executed by all of the UTLAs of SELEP, which sets out the duties and obligations, roles and responsibilities of the parties, the Councils agree that they will continue to be liable under Funding Agreements to which they are a party and may be required to enforce the terms of any project agreement. This obligation survives the integration of the SELEP functions in the UTLAs.

### 11. Equality and Diversity Implications

11.1. Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when a public sector body makes decisions it must have regard to the need to:

11.1.1. Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act.

11.1.2. Advance equality of opportunity between people who share a protected characteristic and those who do not.

11.1.3. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

11.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.

11.3. In the course of the development of the project business case, the delivery of the Project and the ongoing commitment to equality and diversity, the promoting local authority will ensure that any equality implications are considered as part of their decision-making process and where possible identify mitigating factors where an impact against any of the protected characteristics has been identified.

### 12. List of Appendices

12.1. Appendix A – Overview of High Risk projects and associated decision timeline

**(Any request for background papers listed here should be made to the person named at the top of the report who will be able to help with any enquiries)**

Role	Date
<b>Accountable Body sign off</b>	
Michael Neumann  (on behalf of Nicole Wood, S151 Officer, Essex County Council)	14/11/23