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**Minutes of the meeting of the SELEP Accountability Board, held at MidKent College, Maidstone Campus, Oakwood Park, Tonbridge Road, Maidstone Kent ME16 8AQ on Friday, 16 February 2024**

**Present:**

Simon Cook	Chair
Cllr Lee Scott	Essex County Council
Cllr Roger Gough	Kent County Council
Cllr Keith Glazier	East Sussex County Council
Cllr Lauren Edwards	Medway Council
Cllr Andrew Jefferies	Thurrock Council

**Also Present:**

Chris Broome	Sea Change Sussex
Bernard Brown	Member of the public
Lee Burchill	Kent County Council
Paul Chapman	Essex County Council
Alex Colbran	East Sussex County Council
Gary Crooks	Thurrock Council
Howard Davies	SELEP
Richard Dawson	East Sussex County Council
Helen Dyer	SELEP
Sunny Ee	Medway Council
Amy Ferraro	SELEP
Jill Fisher	East Sussex County Council
Jessica Jagpal	Medway Council
George McCullough	Thurrock Council
Stephanie Mitchener	Essex County Council (as delegated S151 Officer for the Accountable Body)
Susan Moussa	Essex Legal Services
Piers Meyler	Local Democracy Reporter
Rebecca Newby	East Sussex County Council
Lorna Norris	Essex County Council
Vivien Prigg	Essex County Council
Tim Rignall	Southend-on-Sea City Council
Helen Russell	SELEP

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Freya Shelley	Southend-on-Sea City Council
Lisa Siggins	Essex County Council
Tristian Smith	Essex County Council
Emma Taylor	DLUHC
Gregory Wilkinson	DLUHC
Andrew Willet	Southend-on-Sea City Council

## 1 Welcome and Apologies for Absence

- Cllr Tony Cox
- Cllr Kevin Bentley substituted by Cllr Lee Scott
- Thomas Wolfenden

## 2 Minutes of the previous meeting

The minutes of the meeting held on Friday 12 January 2024 were agreed as an accurate record.

## 3 Declarations of Interest

There were none.

## 4 Questions from the public

Helen Russell, Chief Executive Officer SELEP, advised the Board that one public question had been received, she read the question and the response.

### Question from Mr Bernard Brown

#### Pacific House Repayment of GPF loan

In the report to the Board Meeting 16/2/24 the history of the project is reported in Paras 6.9 to 6.11. Loan was granted March 2014; Projected Completed June 2015; (para 6.10 page 49) as completed in June 2015 with a 93% occupancy rate in November 2023; loan to be repaid by March 2022; final payment deferred to 2023: repayment deferred again to 2024.

In reports to the board from 09/21 to 09/23 No Risk to the repayment schedule was reported.

If the loans were used only for the purposes described, Pacific House cost at least £6m to build.

Despite reports by Sea Change Sussex of 90%+ occupancy rates no sale of the property has been achieved at an asking price of £5m - £1m less than build cost - after 17 months of marketing. This suggests a Commercial Failure paid for from taxpayer funds.

Sea Change Sussex owes the public purse £3.575m. Before agreeing to defer payment again why does the Board not insist on a part repayment from revenues of the last 24 months. Why is the Board continuing to fund a Private Sector Company?

**Response:**

The primary Growing Places Fund loan agreement for the Sovereign Harbour project sits between Essex County Council (as Accountable Body for SELEP) and East Sussex County Council. This is the only agreement that the Board is able to influence. As Sea Change Sussex are not party to this agreement, it is not possible for the Board to require Sea Change Sussex to make a partial repayment from rental income received.

Sea Change Sussex are party to a separate agreement with East Sussex County Council in respect of the loan for this Project and this sets out the payments to be made from Sea Change Sussex to East Sussex County Council and it would be under this agreement to determine whether partial payments can be required.

East Sussex County Council have provided the following response in respect of their agreement with Sea Change Sussex:

The extension of the repayment period of the loan into 2023/24 was to enable Sea Change Sussex to undertake the necessary marketing required to secure a sale of the building and consequently repay the outstanding Growing Places Fund loan in full. As such there were no other part repayments agreed upon or expected from Sea Change Sussex throughout the year and there is no mechanism in the loan agreement to request this outside the agreed repayment schedule.

## **5 SELEP Operations Update**

The Accountability Board (the Board) received a report from Keri Lawrence, SELEP Governance Officer, which was presented by Helen Russell, 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 SELEP transition arrangements, risk management, compliance with the Assurance Framework and performance against governance KPIs.

Helen highlighted the key points within the report which included an update on the transition of SELEP activities and the associated risks as set out in Sections 4 and 6 of the report.

**Resolved:**

1. **To Note** the update on the transition of the LEP and the integration of its activities into Local Authorities at Section 4 of the report;

2. **To Note** the Risk Register at Section 6 of the report and at Appendix A;
3. **To Note** the update on Assurance Framework compliance monitoring at Section 7 of the report and at Appendix B;
4. **To Note** the update on Governance KPIs at Appendix C of the report.

## **6 Growing Places Fund Programme Update**

The Board received a report from Helen Dyer, SELEP Capital Programme Manager, the purpose of which was to update the Board on the latest position of the Growing Places Fund (GPF) Capital Programme and to seek agreement on the disaggregation of the GPF funding which will be actioned following the dissolution of SELEP.

Helen advised the Board that since the report was published confirmation had been received that the Fitting Rigging House project would be making the required GPF repayment by 31 March 2024.

The Board were advised that the report revisited the request from East Sussex County Council to revise the repayment schedule for the Sovereign Harbour project. Following the discussion at the last meeting, the report outlined options which sought to achieve the greatest level of parity possible across the SELEP area for disaggregation of the SELEP GPF funding, in the context of the remaining Sovereign Harbour repayment.

Cllr Lee Scott advised that Essex County Council would be prepared to support the recommended option, subject to the addition of a provision requiring additional security against the loan. Cllr Scott spoke in support of the option outlined in the report which suggested that any payment of residual revenue funding that may be owing to East Sussex County Council following the closure of SELEP could be withheld until the first repayment against the Sovereign Harbour project is made (in September 2024).

Cllr Keith Glazier offered his thanks to all officers and partners involved in reaching the position outlined in the report. Cllr Glazier asked the Board to not penalise East Sussex County Council by applying security to the loan as proposed by Cllr Scott.

Cllr Glazier reiterated that East Sussex County Council were not in a position to be able to make the remaining GPF repayment owing against the project prior to the end of 2023/24 but confirmed that East Sussex County Council's Section 151 Officer had agreed that six monthly payments could be made, regardless of the status of Pacific House. Therefore, the recommended option presented no risk to the impacted Upper Tier Local Authorities.

The Chair also offered his thanks to all officers involved for their hard work in preparing the report.

The Board took a vote on Cllr Scott's proposal regarding the application of security to the loan, as set out above, with two Board members supporting the proposal and three Board members voting against it. Consequently, the original recommendation as set out in the report (decision 2 below) was agreed.

**Resolved:**

1. **To Note** the updated position on the GPF programme.
2. **To Agree** a two year extension (to 31 March 2026) to the Sovereign Harbour repayment term, subject to East Sussex County Council providing repayments every six months starting from September 2024 to the impacted Upper Tier Local Authorities, in accordance with the updated repayment schedule in Table 5 of the report and with a requirement that if the sale of Pacific House is completed before 31 March 2026, East Sussex County Council will pay the outstanding balance (if any) owed on the loan within thirty (30) days of completion.
3. **To Agree** that no interest will be charged during the two-year extension to the Sovereign Harbour repayment term on the remaining balance owed on the loan subject to payments being made when due. Should repayments not be made, interest shall be charged in accordance with section 6.57.7 of the report and shall be paid to the impacted Upper Tier Local Authorities in accordance with section 6.57.7 of the report.
4. **To Note** that decisions 5 and 7 below for disaggregation of the GPF are not in accordance with the SELEP Assurance Framework as they will bring to an end the recyclable loan scheme. In taking these decisions, the Board is placing reliance on the Government Guidance issued in respect of transitioning LEP functions to Local Authorities, as set out in sections 8.8 and 8.9 of the report.
5. **To Agree** the disaggregation of the GPF funding in accordance with the approach outlined in Section 7 of the report and with the figures set out in Table 7 of the report. Noting that:
  - 5.1. the figures in Table 7 of the report are based on the assumption that all remaining repayments due by 31 March 2024 are made as required;
  - 5.2. the approach to the disaggregation of the GPF funding currently allocated to the Sovereign Harbour project will be dependent upon the option chosen by the Board at this meeting; and
  - 5.3. the decisions in Agenda Item 13 in respect of GPF are agreed by the Board.
6. **To Note** that the existing credit agreement in respect of the Sovereign Harbour Loan between Essex County Council, as Accountable Body, and East Sussex County Council will be incorporated into the proposed Transition Agreement, which will also incorporate the amendments to the repayment

schedule set out in 2.1.2 of the report and the interest provisions set out in 2.1.3 of the report.

7. **To Agree** that with the exception of the Sovereign Harbour loan repayments, the GPF loan repayments due to be repaid by the respective Upper Tier Local Authority to the Accountable Body from 1 April 2024, as set out in Appendix B of the report, will be retained by the Upper Tier Local Authority that is due to repay. Noting that the retention of the loan repayment by the Upper Tier Local Authority borrower shall be incorporated into the proposed Transition Agreement.

8. **To Agree** that if any Upper Tier Local Authority defaults on the repayment of their Growing Places Fund loan that is due by 31 March 2024, interest shall be charged in accordance with the terms of their funding agreement and interest shall be defrayed on a per capita basis based on the 2021 census population data.

## 7 **Getting Building 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 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, provided an update on High risk projects and provided an update on GBF spend to date.

Cllr Lauren Edwards provided assurance of Medway Council's commitment to the Innovation Park Medway project and indicated that the project was only going to be placed on hold for a short period whilst work was undertaken to explore the best options for its future delivery.

Cllr Glazier queried whether there were any issues that the Board needed to be aware of in relation to the GBF projects sitting with Thurrock Council, in light of the lack of reporting provided in advance of the meeting. Helen indicated that it was understood that both Thurrock projects had been fully delivered and the GBF funding had been spent in full and therefore there were no issues for the Board to be aware of.

### **Resolved:**

1. **To Note** the current forecast spend across the GBF programme for the 2023/24 financial year of £8.01m, as set out in Table 1 of the report.

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

## 8 **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 reported LGF spend on project delivery in Q1, Q2 and Q3 2023/24 of £1.422m excluding DfT retained schemes and increasing to £1.552m including DfT retained schemes, as set out in Table 1 and Appendix A of the report.

2. **To Agree** the updated completion date for the following project which has experienced a delay of more than 6 months:

2.1. Eastbourne Town Centre LSTF Access and Improvement Package – project completion delayed from May 2024 to May 2026.

3. **To Note** the intention for East Sussex County Council to bring forward a change of scope for the Eastbourne and South Wealden Walking and Cycling Package and note that, following the dissolution of SELEP, this change will be managed through East Sussex County Council governance processes.

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

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

**9 Stanford le Hope/London Gateway and Grays South LGF project update**

The Board received a report from Helen Dyer, the purpose of which was to provide the Board with an update on the Stanford le Hope/London Gateway and Grays South Local Growth Fund (LGF) projects which have been identified as High risk.

The Board were asked to consider the updated Business Case for the Stanford le Hope/London Gateway project which, following significant cost increases, seeks to demonstrate ongoing compliance with the SELEP Assurance Framework.

In addition, the Board were asked to consider a Change Request in relation to the Grays South project which was seeking approval for an extension to the delivery programme.

The Board were advised that, as required, an updated Business Case had been submitted for the Stanford le Hope/London Gateway project. The Business Case demonstrates that the project continues to offer High value for money and provides a greater level of assurance with regard to project delivery. However, a number of risks and uncertainties remain which may impact on project delivery.

The Stanford le Hope/London Gateway funding package, as detailed in the Business Case, includes the use of £5.4m unspent LGF which is currently allocated to the Grays South project. Thurrock Council were seeking approval for the funding to be temporarily transferred between the projects (an Option 4 swap) to allow the Stanford le Hope project to progress in the short term and had provided a commitment to seeking alternative funding sources to enable the return of capital funding of the same value to the Grays South project in future to support delivery. Whilst this does comply with the requirements of the SELEP Assurance Framework, it presents a risk as the Grays South project is at an early stage of development and a significant amount of work still needs to be undertaken to demonstrate that the proposed scheme is viable.

The Board were advised that required sign off from Thurrock Council's Section 151 Officer had not yet been received in respect of either project and therefore the decisions would need to be caveated, meaning that Thurrock Council would be unable to implement the decisions taken by the Board until the required assurances had been provided. An additional recommendation was agreed to reflect the position (decision 3 below).

Cllr Andrew Jeffries gave assurances that he believed that the required sign offs from Thurrock Council's Section 151 Officer would be forthcoming.

Cllr Roger Gough sought clarification as to the position should the required Section 151 Officer sign offs not be received. It was confirmed that in this situation, a further Board meeting would be required to revisit the decisions made.

Given the level of risk identified within the report, Cllr Gough sought clarification as to where responsibility for managing these risks would sit moving forward if the Board were to agree the recommendations set out in the report. Susan Moussa provided confirmation that the Transition Agreement, which it is intended will be put in place between all 6 Upper Tier Local Authorities and potentially DLUHC, would set out requirements with respect to ongoing monitoring and reporting on projects. In addition, there would be a direct relationship between Thurrock Council and DLUHC with respect to their LGF programme.

Cllr Gough noted that one set of recommendations had been put forward, rather than options for Board consideration. Helen indicated that the Board could choose not to agree the recommendations set out in the report but noted that this would likely have significant implications for both projects, including the risk that the funding is lost and the projects are removed from the LGF programme. Helen confirmed that given the timing of the decision, there were no other realistic options which supported project delivery, which could be put forward for Board consideration.

**Resolved:**

1. **To Note** the update on delivery of the Stanford le Hope/London Gateway and Grays South projects.



2. **To Agree** that, following consideration of the updated Business Case, the £7.5m LGF funding allocation can be retained against the Stanford le Hope/London Gateway project, subject to the following also being agreed:

2.1. **To Agree** that the delivery programme for the Grays South project can be extended following the decision by Thurrock Council to explore alternative scheme proposals. Noting that the expected project completion date is now September 2028.

2.2. **To Agree** that Thurrock Council can employ an Option 4 Capital Swap allowing £5.4m of the currently unspent LGF allocation awarded to the Grays South project to be temporarily transferred to the Stanford le Hope/London Gateway project to support project delivery. Noting that Thurrock Council have committed to returning capital funding of the same value to the Grays South project at a later date to enable project delivery.

3. **To Note** that the decisions taken at this meeting cannot be implemented until the required assurances have been received from the Section 151 Officer at Thurrock Council.

## 10 **LGF High Risk Project Update**

The Board received a report from Howard Davies, SELEP Capital Programme Officer, the purpose of which was for the Board to receive an update on the current delivery status of five Local Growth Fund (LGF) projects which have been identified as High Risk; A28 Sturry Link Road, Beaulieu Park Station, A28 Chart Road, Purfleet Centre, and A127 Fairglan Junction Improvements.

The Board were advised that all five projects have remaining risks which need to be addressed as project delivery progresses and it is intended that provisions will be included in the Transition Agreement with respect to on-going monitoring of project delivery with DLUHC from April 2024.

### **Resolved:**

1. **To Note** that there are on-going risks across all of the projects set out in this report that will extend beyond the end of SELEP. Provisions are to be implemented in the Transition Agreement that will set out arrangements for on-going monitoring of project delivery with the Department for Levelling Up Housing and Communities (DLUHC) from April 2024. The following is highlighted to note for each project:

#### **A28 Sturry Link Road**

**To Note** that there remain significant risks to the project, however, progress has been made on a number of identified issues but mitigations are required to be put in place by Kent County Council to ensure successful delivery.

**Beaulieu Park Station**

1. **To Note** that a significant risk in relation to the Homes England HIF funding has been fully mitigated by the signing of the Deed of Variation and delivery of the project continues.

2. **To Note** that risks remain in relation to further delays and cost escalation, but that Essex County Council will closely monitor these.

**A28 Chart Road**

**To Note** that, although there remains a significant risk to the project, Kent County Council has provided assurances that they remain committed to its delivery and will need to ensure that satisfactory mitigation plans are in place and continue to be monitored.

**Purfleet Centre**

**To Note** that, although there remains a significant risk to the project and realisation of the benefits, Thurrock Council has provided assurances that they remain committed to its delivery and will need to ensure that satisfactory mitigation plans are in place and continue to be monitored.

**A127 Fairglen Interchange**

**To Note** that approval of the full Business Case cannot be confirmed by Department for Transport until the agreed tender costs are included, and that the new tender process is due to complete in June 2024.

**11 A13 Widening LGF Project Update**

The Board received a report from Howard Davies the purpose of which was for the Board to receive an update on the Value for Money assessment for the A13 Widening Local Growth Fund (LGF) project (the Project).

The Board were advised that, based on information currently available, it was not possible to assure that the Project continues to offer High value for money at this time. It was noted that, given that the Project is practically complete, no decision in respect of potential Value for Money concerns is required from the Board under the SELEP Assurance Framework but the Board were asked to note the position.

**Resolved:**

1. **To Note** that following practical completion of the Project, the latest available information indicates that it may no longer demonstrate Value for Money in accordance with the requirements of the SELEP Assurance Framework.

2. **To Note** that as part of the monitoring and evaluation process following Project completion, Thurrock Council is required to keep the anticipated benefits under review to assess whether the outcomes set out in the Business Case are realised.

## 12 Monitoring and Evaluation Update

The Board were advised that further work is required to ensure that the outputs and outcomes data received from local areas is robust and therefore this report will now be considered at the Strategic Board meeting on 22 March 2024.

## 13 Legal and Finance Update

The Board received a report from Lorna Norris, Senior Finance Business Partner and Susan Moussa, Supervising Associate Solicitor, the purpose of which was for the Board to note the arrangements to be entered into (subject to governance by each council) and to take decisions on the funding due to be held by the SELEP Accountable Body (Essex County Council) at the end of March 2024.

Cllr Glazier acknowledged the hard work of officers and offered his thanks to all those involved in establishing arrangements which enable the closure of SELEP in accordance with the Strategic Board decision. This was echoed by the other Board members present, with an acknowledgement of the challenging environment within which SELEP has been operating in recent years.

### Resolved:

1. **To Note** the Councils and Department for Levelling Up, Housing and Communities are expected to enter into a Transition Agreement (as set out in paragraph 4.2 and 4.4 of the report) to formalise the arrangements in respect of integration of the LEP functions and for the Accountable Body to defray the funding in line with paragraphs 2.1.5 and 2.1.6 of the report.

2. **To Agree** the 2023/24 forecast outturn position set out in Table 1 of the report, noting that this includes the planned movements in reserves set out in Table 4 of the report.

3. **To Agree** that an appropriation can be made from the Redundancy Reserve in 2023/24 to plan to meet the cost of redundancies arising in respect of employees in the SELEP Secretariat that, following consultation due to the closure of SELEP, are unsuccessful in securing an alternative role, noting that:

3.1. This will impact on the 2023/24 final outturn position for SELEP; and

3.2. Sufficient funding has been provisioned within the reserve to meet the redundancy costs.

4. **To Agree** that the final outturn position for SELEP, including for each reserve, can be agreed by the Section 151 Officer of the Accountable Body following preparation of the 2023/24 accounts in accordance with proper practices, noting that the accounts will be subject to External Audit.

5. **To Agree** that once (i) the Transition Agreement has been signed by all six upper tier local authority partners and (ii) the Department for Levelling Up,

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Housing and Communities releases and discharges Essex County Council from all liabilities as Accountable Body of SELEP for projects outside of administrative Essex and each upper tier local authority takes on responsibility for projects within their administrative areas prior to 1 April 2024, the Accountable Body can transfer to the respective upper tier local authority partner(s) of SELEP the following:

5.1. The balance of funding in the SELEP Operational Reserve at the 31 March 2024 to be transferred to the six local authority partners in accordance with the approach agreed by the Board in January 2024, that is exemplified in Table 5 of the report.

5.2. In accordance with the principle agreed at the January 2024 Board meeting, transfer to any of the six upper tier local authority partners, the redundancy liability, up to the 31 March 2025, in respect of the employment of current permanent members of the SELEP Secretariat, in a capacity supporting the close down of SELEP or the continuation of LEP functions; noting that sufficient funding has been provisioned within the Redundancy Reserve, as set out in Table 4 of the report, to meet this cost.

5.3. Transfer to Essex County Council the final balance of the Future Commitments reserve to meet costs arising in 2024/25 in respect of the close down costs for SELEP; noting that the costs will be impacted by the outcome of the on-going SELEP Secretariat staff consultation process, that is not yet known and the balance on the reserve will be adjusted accordingly; but the forecast in Table 4 of the report is expected to be the maximum amount required.

5.4. Transfer to Essex County Council the balance of the Risk Reserve, as forecast in Table 4 of the report to meet any risks arising as a consequence of being the Accountable Body, only if known risks remain unmitigated and DLUHC has not fully released and discharged Essex County Council from all liabilities arising from its role as the Accountable Body for SELEP by 31 March 2024.

5.5. Transfer any residual uncommitted reserves following the dispersal of funds in accordance with 5.1 to 5.4 above to the six upper tier local authority partners in accordance with the approach agreed by the Board in January 2024, to allocate on the same basis as the Operational Reserve, as exemplified in Table 5 of the report.

5.6. Transfer the Growing Places Fund balance held by the Accountable Body at 31 March 2024, as set out in Table 3 of the report, in accordance with the approach agreed by the Board under Agenda item 6, noting that the balance held will be impacted by the decision under that item in respect of the Sovereign Harbour Project and should not all payments due to be repaid be received by 31 March 2024.

6. **To Agree** that subject to the Transition Agreement being signed by all six

upper tier local authority partners and the Department for Levelling Up, Housing and Communities releases Essex County Council as Accountable Body from responsibility for projects outside of administrative Essex and that each upper tier local authority takes on responsibility for projects within their administrative area, the Accountable Body is not required to recover any Growing Places Fund Loan repayments due after the 31 March 2024 and that the current recyclable Loan Scheme is ended; noting that specific provisions may be agreed in respect of the Sovereign Harbour Project under Agenda item 6, which will be incorporated into the Transition Agreement.

7. **To Note** that for SELEP to close it must have a zero balance sheet and all monies held by Essex County Council as Accountable Body will be allocated in accordance with the decisions of the Board, at the close of 2023/24 subject to the conditions set out in this report, which will result in a zero balance sheet.

#### **14 Date of Next Meeting**

The Board noted that no further meetings were scheduled.

The Chair echoed the comments made by the other Board members with respect to the amount of work and effort which has gone in to making the transition of LEP activities as straightforward as possible, particularly in light of the challenging circumstances. The Chair also thanked Board members for their input and participation during Accountability Board meetings.