

DECISIONS DELEGATED TO OFFICERS

Decision title:	Loan agreement with Low Carbon Hub
Decision date:	05 August 2021
Source of delegation:	<p>Cabinet on 25 May 2019 resolved to:</p> <ol style="list-style-type: none"> 1. Approve a revolving loan facility to the Low Carbon Hub of £2.3 million at an annual interest rate of 5%, secured on the assets of the Low Carbon Hub whilst noting the success of previous loan facilities; 2. Recommend that full Council agrees to make budget provision of £2.3 million to enable this loan facility to be created; and 3. Instruct the Head of Law and Governance in consultation with the Head of Financial Services to draw up and enter into a new loan agreement with the Low Carbon Hub setting out the terms of the loan. <p>Cabinet on 16 June 2021 resolved to:</p> <p>Delegate authority to the Head of Corporate Strategy in consultation with the Cabinet Member for Zero Carbon Oxford to enter into a loan agreement back by funding from Salix Finance, with Low Carbon Hub on terms to be agreed by the Head of Financial Services/Section 151 Officer; and the Council's Monitoring Officer. The loan facility based on 1.45% over 22 years would provide around £540k interest to the Council together with the repayment of loan principle of £3.019m.</p> <p>The Head of Corporate Strategy has further delegated the decision to the Head of Financial Services</p>
What decision was made?	<p>The report to Cabinet on 16 June 2021 outlined a loan investment to be made to Low Carbon Hub (LCH) of £3,019,561 fully funded by the Public Sector Decarbonisation Scheme grant awarded to the council by Salix Finance Ltd a wholly owned Government department funded by the Business Energy and Industrial Strategy Department (BEIS) to finance the project costs of a solar farm project at Ray Valley.</p> <p>The Head of Financial Services has encountered difficulties in drafting the loan agreement with Low Carbon Hub. External legal advice has raised concern with the draft agreement which has to date been relied on to make the transaction in that it is 'light' in terms of what they would expect to see in what is effectively a development agreement. Specifically the draft agreement does not pull across the conditions on the Council for accepting the</p>

	<p>grant funding from Salix Bank and there are concerns around the enforceability of the security for the loan based on revenue income streams from existing LCH assets.</p> <p>There is a pressing need to make a decision and make payment to the LCH by 6th August 2021 for the project to stay on track. It is likely that without such funding the project will be stopped (it is already on site) resulting in reputational damage to the LCH and the City Council as well as financial issues for the LCH.</p> <p>A payment to LCH cannot be made without a loan agreement and time is short to get this issue resolved if payment is to be made on 6th August. There is insufficient time to resolve all of the issues raised by the external legal advice and therefore it is not possible to make the payment as a loan from the Council with funding from the Salix Bank.</p> <p>The Council does have an existing, tried and tested, 'revolving loan facility' of £2.3 million approved by Cabinet on 25 May 2019 and by Council on 22nd July 2019 for a period of 3 years to finance 'green energy schemes'. The LCH has previously drawn down an amount of £3.6 million on this facility and has always repaid on time. There are currently no loans outstanding. Loan security has previously been provided on income streams from LCH existing installations and this has always to date been satisfactory. While there may be similar concerns about the enforcement of the security in a similar manner to that of the draft Salix backed agreement, the revolving loan facility is still available, and the use in this way would be appropriate and within the terms of the existing and extant agreement that already exists between the Council and LCH.</p> <p>In order to keep the Ray Valley Solar (RVS) scheme on track the decision taken is to use the existing revolving loan facility approved by Cabinet on 29 May 2019 to make a payment of £2.3 million to LCH under the existing terms. The temporary nature of this loan should provide additional time to attempt to draw up a loan agreement for the Salix backed loan. Moreover, the Council is also exploring the option of converting the Salix based loan into a grant from Salix, which would ultimately remove the need for any securitisation, but would also remove any long-term financial benefit for the Council.</p>
<p>Purpose:</p>	<p>Investment in the Ray Valley Solar Farm project being developed by the Low Carbon Hub; a key renewable energy development for Project LEO (Local Energy Oxfordshire), in which the City Council is a partner organisation.</p>

Reasons:

Ray Valley Solar is a 19MW ground mounted solar farm near the village of Arncott with potential for battery storage to be installed in the future. The site itself neighbours an MOD logistics site, HMP Bullingdon, and two existing solar parks, and is expected to comprise c.45,000 solar panels across an 80 acre site. It will be the largest community-owned solar park in the UK, generating enough energy to power the equivalent of over 6,000 homes per year.

It is expected that RVS will keep £2.6m of additional clean energy spend in the local economy every year, and provide £13m of community benefit funding over the lifetime of the project (22.5 years).

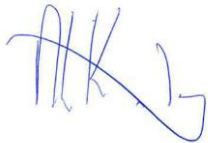


Although some of the concerns raised by external lawyers in respect of the Salix backed loan agreement are still relevant, not least of all the enforcement of the security for the loan and where it ranks with other creditors in the event of default, the revolving loan facility is the preferred method of making the payment to LCH at the least risk for the following reasons:

- a. Without a payment to LCH on 6th August 2021 the Ray Valley Solar Farm scheme which is already on site will be stopped resulting in reputational damage for LCH and the Council as well as financial difficulties LCH.
- b. This is an innovative project, and an innovative partnership between OCC and LCN. Such projects and partnerships, by their very nature carry a different risk profile and the need for risk to be shared between partners.
- c. The existing loan facility agreed by Cabinet and Council on 22nd July 2019 is still running and allows the Council to make this advance
- d. The Council has used this arrangement a number of times with the LCH and all repayments have been made to the Council on time and are trusted to do so again.
- e. The interest rate is 5% and the amount is £2.3 million but it is believed that LCH can work with this.
- f. The arrangement would be temporary (although the period has yet to be agreed) since the arrangement is only for 364 days but it should provide time for working through the loan agreement with the Salix backed loan as the favoured option.
- g. The Salix loan agreement with LCH would be 22 years, whereas the revolving fund agreement is up

	<p>to 364 days. As such, whilst not entirely risk free especially around the enforcement of the existing security, the reduced period that this is outstanding, mitigates this risk to some degree.</p> <p>h. The approach allows further time for the Council to work with LCH and lawyers on the Salix backed loan agreement with LCH with a view to achieving a return to the Council.</p> <p>i. The loan is between the Council and the LCH, whereas the other loan facility is more complicated involving a third party Salix Bank.</p> <p>j. If it does not prove possible to agree a loan agreement with LCH then switching the agreement with Salix to a grant to LCH may be an option. This would remove the securitisation issue, but would remove any financial upside for the Council.</p>
Decision made by:	<p>Decision taken by Nigel Kennedy, Head of Financial Services.</p> <p>Decision taken in consultation with Cllr Tom Hayes, Cabinet Member for Green Transport and Zero Carbon Oxford, Ed Turner Cabinet Member for Finance and Asset Management, Marcia Ecclestone, Legal Services Manager, Caroline Green, Chief Executive, and Tom Bridgman, Director of Development.</p>
Councillor Tom Hayes, Cabinet Member for Green Transport and Zero Carbon Oxford	Happy with the proposed way forward.
Consultee – Councillor Ed Turner, Cabinet Member for Finance and Asset Management	Agree to proceed on the basis of the this decision note
Consultees – Legal Services Manager (Marcia Ecclestone)	The Legal Services Manager as a consultee has expressed concern about the draft Salix backed loan agreement which is far from being in a position to sign. The measures outlined above in the use of the revolving loan and the potential of flipping the Salix backed transaction to a grant to LCH may mitigate some of these concerns though Legal still have concerns about this as earlier referenced and maintained.
Consultees – Director of Development (Tom Bridgman)	Although not entirely risk free the suggested way forward presents a pragmatic solution to ensure that the Ray Valley Solar Farm project, and our partnership with LCH, stays on track. This is an innovative project and partnership between OCC and LCH. Such projects and partnerships, by their very nature often carry a different

	<p>risk profile. The measures set out seek to mitigate that risk, by using the tried and tested revolving loan facility, which has been successfully used for previous innovative projects. It also provides the time needed to seek to secure the right terms for OCC through the Salix opportunity, either as a loan, or indeed a grant.</p>
<p>Consultee – Chief Executive (Caroline Green)</p>	<p>The proposed way forward enables us to move forward with the Ray Valley Solar Farm project using the established model we have with LCH and is a managed risk based on the partnership with them. In moving forward to consider the Salix Loan/Grant opportunity we will need to fully set out the risks and mitigating measures to inform decision that balances risks and benefits to the council.</p>
<p>Other options considered:</p>	<p>Not to proceed with any advancement of money to LCH – Likelihood of innovative project not moving forward, which would negatively impact the delivery of OCC’s work towards key corporate objectives. Also reputational damage to the Council and LCH, including financial issues to LCH</p> <p>Proceed without loan agreement for Salix backed loan in place - Not possible at this point, since there would be no contractual position with LCH for the advancement of the money. The proposed solution provides the time to explore if this contractual position for a loan can be worked out, or if the Salix money can alternatively be provided as a grant.</p>
<p>Documents considered:</p>	<p>Approval of investment in the Ray Valley Solar Project under the Public Sector Decarbonisation Scheme - Report to Cabinet on 16 June 2021</p> <p>Revolving Construction Loan to Low Carbon Hub – Report to Cabinet on 29 May 2019 and Council on 22 July 2019.</p>
<p>Key or Not Key:</p>	<p>Not key (the revolving loan and associated budget were approved by Cabinet and Council in 2019).</p>
<p>Wards significantly affected:</p>	<p>None</p>
<p>Declared conflict of interest:</p>	<p>None</p>
<p>This form was completed by: Name & title: Date:</p>	<p>Andrew Brown Committee and Member Services Manager 05 August 2021</p>

Approval checklist

Approver	Name and job title	Date
Head of Financial Services	 Nigel Kennedy, Head of Financial Services	05 August 2021
Legal Services Manager	Marcia Ecclestone, Legal Services Manager	04 August 2021
Chief Executive	 Caroline Green, Chief Executive	04 August 2021
Executive Director of Development	 Tom Bridgman, Executive Director of Development	04 August 2021
Cabinet Member(s)	Councillor Tom Hayes, Cabinet Member for Green Transport and Zero Carbon Oxford Councillor Ed Turner, Cabinet Member for Finance and Asset Management	04 August 2021