

## CABINET MEMBER DECISION RECORD

<b>Decision Ref. No:</b>
<b>Responsible Officer:</b> Chris Shephard Head of Economic Development & Sustainability
<b>Subject:</b> European Structural Investment Fund - SME Competitiveness bid: "Dorset Business Growth" project
<b>Decision taken:</b> For the Council to guarantee the obligations of WSX Enterprise Limited as to the delivery of the Dorset Business Growth project, as set out in the funding agreement provided by the Department for Communities and Local Government.
<b>Reasons for the decision:</b> To enable the Council to contribute to the delivery of its Thriving Economy corporate priority, by supporting partner organisations across the region that provide real economic and social value.
<b>Call-in and Urgency:</b> 5 days
<b>Background:</b> <p>On September 7th 2016, Cabinet approved a decision that the Council should accept accountable body status for the Dorset Business Growth Project (the Project). Cabinet also recognised and approved the commitment by the Council, within the context of its 2017/18 Budget and Medium Term Financial Plan (MTFP), to the financial and in-kind contribution outlined in the report over the lifetime of the Project. It was expected that the Council's maximum financial exposure would be £1,000,000 (one million pounds), and that the role of the accountable body would principally be to oversee the distribution and claims of the grant funding, including providing a cash flow function where necessary.</p> <p>Since then, the Department for Communities and Local Government (DCLG), being the managing authority for all ESIF funds, has provided to the Council the form of funding agreement (the Funding Agreement) to be entered into between the DCLG and the lead partner for the Project, WSX Enterprise Limited (WSX). The Funding Agreement sets out the parties' respective obligations in relation to £6,700,000 (six million seven hundred thousand pounds) of ESIF funding for the Project including, inter alia, the circumstances when WSX may be required to repay some or all of the funding at the discretion of DCLG (a Repayment).</p> <p>The DCLG has advised that a guarantee of WSX's obligations in the Funding Agreement must be provided (the Guarantee). Pursuant to the Guarantee, the</p>

Council agrees to become primarily responsible for paying any losses, costs and expenses sustained by the DCLG as a result of WSX breaching its obligations under the Funding Agreement.

As set out above, the Council's role will not extend to the administration of funding, but the Council will need to monitor the Project to assure compliance with the Funding Agreement by WSX.

However, in financial terms, the key change is that the Council will be fully responsible in the event that the DCLG suffers any loss, cost or expense arising out of WSX's breach of the Funding Agreement. In practical terms, this liability is most likely to arise in the event of the DCLG seeking a Repayment.

In order to limit the risk of the Council becoming responsible for making any Repayment, the Council has:

(i) agreed with DCLG that the maximum liability under the Guarantee will be 75% of the greater of (a) the amount drawn down by WSX under the Funding Agreement at any given time and (b) £6,700,000; and

(ii) entered into an agreement with WSX whereby (a) WSX and the Council agree to work collaboratively and to monitor the Project jointly via a Project board and (b) WSX agrees to indemnify the Council against any liabilities accruing to the Council pursuant to the Guarantee.

Although this is a change in terms of the Council's potential financial exposure, the risk of Repayment in relation to some, let alone all, of the funding remains low. This is because the type of expenditure expected to deliver the outcomes is deemed to be within business as usual for a European-funded project of this nature, i.e., not high risk.

Furthermore, there are significant and appropriate measures put in place by WSX to ensure processes, claims and projects are delivered in a manner which is compliant with the Funding Agreement. WSX has advised that it will recruit a dedicated manager for the Project and will form an investment panel to oversee and advise its delivery partners for the Project.

Finally, WSX has managed European-funded projects for over 10 years and has significant experience of implementing systems which facilitate successful project delivery and smooth claim and expenditure processes within the relevant project criteria.

**Options - and reasons for rejection:**

Option 1: To sign the funding agreement presented by DCLG, which asks the Council to guarantee the obligations of WSX Enterprise Limited (the Lead Partner) to the total value of the project which is £6.7m, because the Council accepts the risk and robust level of mitigation of that risk. This would see £13.4m of investment (including £6.7m of match funding) flow into Bournemouth and Dorset to support the growth of local businesses.

Option 2: to decline to sign the agreement based on the level of potential financial exposure, despite the robust processes in place to mitigate the risk.

**Consultations undertaken:**

Business community

Business Support organisations (Chamber of Commerce, Silicon South, DORMEN, Outset/YTKO, Creative Dorset)

Local Authorities in Dorset

Department for Communities and Local Government

**Finance/Resource Implications:**

The background section of this report clearly sets out for the Cabinet Member the risks to the Council and Bournemouth council tax payers of taking on the role as Guarantor status for the Dorset Business Growth Project. The Council's role will not extend to administering the funds, but the Council will need to closely monitor the Project to assure compliance with the Funding Agreement by WSX. In this regard the Council will be discharging a significant element of its responsibilities via WSX Enterprise who we will be reliant on in adhering to the detailed guidance to be issued by the Department of the Communities and Local Government (DCLG).

In financial terms, the key change is that the Council will be fully responsible in the event that the DCLG suffers any loss, cost or expense arising out of WSX's breach of the Funding Agreement. In practical terms, this liability is most likely to arise in the event of the DCLG seeking a Repayment.

These risks need to be considered in the context of the benefits to Bournemouth and Dorset businesses and assessed in the knowledge that appropriate mitigation arrangements will be put in place, including a signed agreement with WSX which agrees to indemnify the Council against any liabilities accruing to the Council pursuant to the Guarantee. The value to the Council of the indemnity provided will be subject to the financial position of WSX from time to time.

In committing to this project the Council is also committing within the context of its 2017/18 Budget and Medium Term Financial Plan (MTFP) to the £60,000 financial contribution (£20,000 per annum \*3 years).

Name: *Shawn Darcy*  
Date: *10/11/16*

Signature: 

**Legal implications:**

The Council has been requested by WSX to provide a Guarantee in respect of the Funding Agreement. Pursuant to the Guarantee, the Council could be called upon to make a payment to DCLG which is capped in line with the Background section of this report.

To that end, the Council will require WSX to enter into an agreement whereby WSX agrees to indemnify the Council against any liabilities accruing to the Council pursuant to the Guarantee.

The Council has the power to enter into the Guarantee pursuant to section 1 of the Localism Act 2011 and in furtherance of its objectives to maximise the potential for economic development and job growth in its administrative area by facilitating the Project.

Name: *Stan Ballingall*

Signature: 

Date: *10 November 2016.*

**Risk assessment:**

Risk 1: Financial Cost to council. Mitigation: robust controls, procedures and governance to ensure claims meet criteria and partners are responsible for any associated costs

Risk 2: Reputational cost to Council if projects aren't delivered/are poorly managed. Mitigation: robust controls and partnership in place with track record of delivery.

Risk 3: BREXIT causes finance/project to stop. Mitigation: confirmation from HM Treasury/DCLG that funding will be honoured.

Name: Chris Shephard

Signature: 

Date: 10/11/16

**Impact Assessments:**

N/A

**Background papers:**

N/A

Any conflict of interest declared by a Cabinet Member who is consulted by the Member taking the decision	Name of Cabinet Member	Nature of interest	Details of any dispensation granted by the Monitoring Officer
No			

Authorised by:

Name: *WILLIAM COTTON* Signature

Date: *10 NOV 2016*

Decision taken by:

Councillor John Beesley

Cabinet Portfolio:

Leader of the Council and

Portfolio for Resources

Signed

Date of decision: *10.11.16.*

Date of publication of record of decision:

11 November 2016

Date decision effective - that is 5 working days after the date of publication of the record of decision unless the decision is called-in for consideration by the relevant Overview and Scrutiny Panel: 18 November 2016