

Decision Pathway Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 02 April 2019

TITLE	City Leap Energy Partnership		
Ward(s)	City-wide		
Author: David White	Job title: Head of Energy Services		
Cabinet lead: Cllr Dudd	Executive Director lead: Colin Molton		
Proposal origin: BCC Staff			
Decision maker: Cabinet Member Decision forum: Cabinet			
Timescales: April Cabinet			
Purpose of Report: To seek approval to set up the City Leap Energy Partnership.			
Evidence Base:			
<p>The aim of City Leap is to take advantage of the transition to a decentralised energy system to build an interconnected, low carbon, smart energy system that delivers social, environmental and economic benefits for the people of Bristol, building on the innovative leadership the council has shown in energy and sustainability over almost three decades.</p> <p>The council has a compelling value proposition; the council itself, with its assets and influence, the council's award-winning Energy Service, with its expertise in delivering low carbon energy infrastructure and pipeline of investment opportunities, and the council's wholly-owned energy supply company, Bristol Energy, which will have a key role to play in this transition by harnessing its energy supply expertise and smart energy innovation capabilities to put the company on a sustainable footing for the future.</p> <p>City Leap will leverage this value proposition to drive city-wide action, strategically co-ordinating and delivering energy infrastructure projects at significantly increased scale and pace over and above what the council could achieve on its own.</p> <p>This transformation will require significant levels of investment; levels that the council cannot deliver alone. Therefore, one of City Leap's aims is to attract, facilitate and deliver at least £1bn of low carbon and smart energy infrastructure investment in Bristol's energy system.</p> <p>To that end, in May 2018, the council published the City Leap Prospectus, which set out our past successes, current programme of work and future investment opportunities in relation to energy. The Prospectus invited engagement from any organisation with an interest in Bristol's future energy vision and the range of investment opportunities set out in the document. The response to the City Leap Prospectus exceeded the council's expectations with 180 Expressions of Interest being submitted containing a wide range of proposals.</p> <p>The council subsequently undertook an extensive soft market testing phase with organisations that submitted Expressions of Interest, as well as completing its own comprehensive options appraisal. The outcome of these exercises is that the council's preferred model to deliver City Leap is to set-up a joint venture with a strategic partner.</p> <p>This partnership will merely be the start of the City Leap journey, which will need to be flexible and inclusive in its approach, bringing in new projects, innovation and partners over time as Bristol progresses towards carbon neutrality and a more decentralised, democratised energy system.</p>			

Cabinet Member / Officer Recommendations:

That Cabinet:

1. Approve proposals for procuring a suitable party for a strategic partnership, with a third party to deliver City Leap in accordance with the recommended joint venture structure set out in the Business Case contained at Appendix A (the “**City Leap Energy Partnership Structure**”).
2. Authorise the drawn down of expenditure of up to £2m to fund the procurement activity which will include the project team and professional advisors. This sum will to be funded from the earmarked allocation within the 19/20 budget.
3. Delegate authority to Executive Director of Growth and Regeneration in consultation with Director of Legal and Democratic Services, Director of Finance (s151 Officer), Cabinet Member for Energy and Deputy Mayor for Finance, Governance and Performance for all matters relating to procurement of the strategic partner via a competitive process.
4. Authorise the Executive Director of Growth and Regeneration (in consultation with Director of Finance) to procure appropriate professional advisors to be funded from the City Leap procurement budget.
5. Approve the innovation funds of up to £2m to be utilised as City Leap enabling funds to prepare and demonstrate the opportunities which will arise from City Leap, and delegate the authority to Director of Finance (s151 Officer) in consultation with the Deputy Mayor for Finance for the phasing and draw-down these funds.
6. Approve in principle the approach of using the Council’s assets and resources outlined in Appendix G (exempt), Appendix H (exempt) and Appendix I (exempt) to drive optimum value during the JV procurement process.
7. Approve proposals for the creation of such entities (the legal structure to be determined) and the establishment of such governance arrangements as may be required for the City Leap Energy Partnership Structure, further details of which are set out in Appendix G (exempt), Appendix H (exempt), and Appendix I (exempt), and delegate authority to Director of Legal and Democratic Services in consultation with Deputy Mayor for Finance, Governance and Performance to determine the process for and to implement the above.
8. For Cabinet to note that further report will be brought back to the Cabinet prior to the final appointment of prospective Strategic Partner(s). This report will include consideration and approval for any investments in, or transfer of assets into, the City Leap Partnership Structure, along with the financial and legal terms therein.

Corporate Strategy alignment:

The City Leap Energy Partnership is intended to deliver the £800m to £1bn investment referenced under the second Wellbeing Key Commitment in the Corporate Strategy 2018-23, which was approved by Full Council in February 2018, ‘Keep Bristol on course to be run entirely on clean energy by 2050 whilst improving our environment to ensure people enjoy cleaner air, cleaner streets and access to parks and green spaces.’

City Benefits:

- Keep Bristol on course to be run entirely on clean energy by 2050 by delivering £800m to £1bn of investment in the city’s low carbon, smart energy system.
- Improve our environment to ensure people enjoy cleaner air through supporting the further deployment of renewable energy generation and electric vehicles.
- Improve physical and mental health and wellbeing by making residents’ homes warmer and cheaper to heat, reducing inequalities and the demand for acute services.
- Tackle food and fuel poverty by reducing energy bills.
- Create jobs, contributing to a diverse economy that offers opportunity to all and makes quality work experience and apprenticeships available to every young person.

Consultation Details: 30+ briefings provided to the Mayor, Cabinet Member Briefings, Oversight & Scrutiny Management Board, Growth and Regeneration Scrutiny Commission and Senior Officers from July 2018 to present.

Revenue Cost	See Appendix G	Source of Revenue Funding	See Appendix G (exempt)
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	(exempt)		
Capital Cost	See Appendix G (exempt)	Source of Capital Funding	See Appendix G (exempt)
One off cost <input checked="" type="checkbox"/>	Ongoing cost <input type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input checked="" type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:	
<p>1. Finance Advice: This proposal seeks approval to proceed with the procurement of the City Leap Energy Partnership and the setting up of the partnership structure based on the recommended option / approach under this report, recognising the implementation is subject to the outcome of the procurement process.</p> <p>The proposal seeks in principle approach to utilise the Council’s energy resources set-out in Appendix G to attract up to £1bn of inward investment to the city to create an innovative new approach towards transforming the energy system by decarbonisation, democratisation and decentralisation, ultimately with the aim to maximise the economic, social and environmental benefits that would arise from this opportunity for Bristol and its Citizens. Wider social benefit would include job creation, reducing fuel poverty, improving digital connectivity, and support the delivery of future services.</p> <p>To achieve these ambitions, two conditions must be met: 1) The Council must utilised its existing expertise and capability and have access to new ones to deliver this ambition; 2) up-front funding is needed to attract significant private finance in order to fund the construction of the infrastructure programme. This is done in ways of balancing value-for-money, risk, and potential rewards between the Council, the Strategic Partners and other stakeholders, whilst protecting the Council and the wider public’s interest.</p> <p>This proposal seeks approval to procure a Strategic Partner that can meet the following key objectives:</p> <ol style="list-style-type: none"> 1) For the Council to develop a partnership with an experienced organisation (the ‘Strategic Partner’) to establish a long-term, flexible City Leap Energy Partnership that will work together to strategically originate, develop, co-ordinate, finance (or seek finance), deliver and facilitate a programme of works that supports the creation of a resilient energy system and for Bristol to achieve carbon neutrality; 2) Optimise the Council’s assets and services to attract additional investment and generate revenue to support a sustainable business model for the City Leap Energy Partnership. Make best use of existing assets and other financial and non-financial contributions to achieve the City Leap objectives; 3) The Council’s potential investment in City Leap should achieve a reasonable commercial rate of return, meanwhile promoting the City Leap programme to achieve wider social/environmental benefits. <p>The recommended option in this proposal illustrates the structural expectations of the City Leap Energy Partnership. The Council has a number of levers to optimise the financial and commercial benefits under the proposed structure to meet the above objectives, facilitate private investment, and mitigate the risks to the Council. The exact form and use of these resources is subject to further due diligence and the outcome of the competitive procurement process, and the structure of the proposals will be shaped to an extent with the Strategic Partners on board. A further report will be brought back to the Cabinet prior to the final appointment of a prospective partner.</p> <p>Please see Appendix G (i) and G(ii) (exempt) and Appendix I (exempt) for the detailed financial commentaries setting out the Partnership Structure, potential investment envelope and principles, expected range of financial returns for the Council and any significant financial risk considerations.</p> <p>The Council has procured external financial, legal and commercial advisors to support the options appraisal for the setup of the City Leap Partnership structure. This proposal also seeks approval for further expenditure of c£2m, funded from the earmarked allocation within the 19/20 budget, to maintain the project team and engagement of professional advisors through to the completion of the procurement process. Approval is also sought to allow innovation funds of up to £2m to be utilised as City Leap enabling fund to prepare and demonstrate the opportunities which will arise from City Leap, and delegate the authority to Deputy Mayor for Finance in consultation, Director of Finance (s151 Officer) for the phasing and draw-down these funds.</p>	
Finance Business Partner: Tian Ze Hao	Date: 15/03/19

2. Legal Advice:

The City Leap structure envisages the Council establishing such trading companies as may be required under the City Leap structure under its existing Holding company structure. Under s4 Localism Act 2011 and s95 Local Government Act 2003 the Council has the power to establish a company for the purposes of carrying out trade to generate profit or for other purposes.

The City Leap structure involves state resources being transferred into the structure, which could give rise to State Aid risks if transferred at less than market value. The structure proposes to mitigate that risk by following the “market investor” principle. The proposed regulated competitive procurement process should minimise any risk of a transfer taking place at less than market value. The Council has undertaken a valuation of its assets against which it can benchmark bids from potential strategic partners. However, once the detailed City Leap structure has been finalised, further review of the State Aid position will be required, and this will need to be monitored on an ongoing basis.

The exact commercial terms of any corporate entities within the structure will be subject to negotiation during the procurement of the strategic partner. For the purposes of designing the procurement the Council will need to identify any matters that are absolute requirements of the Council within the structure, and so are not open for negotiation, and those matters which may be negotiated. An internal governance structure to manage the negotiation process has been proposed.

The proposed City Leap structure envisages that the joint venture and other entities within the City Leap Partnership structure sitting below it will not be “bodies governed by public law” and so will not be subject to procurement regulations. However, this position will need to be monitored and considered carefully during the strategic partner procurement negotiations to ensure that the detailed shareholder arrangements in relation to those entities does not alter the analysis.

The Council must comply with the requirements of the Public Sector Equality duty when making any decisions. The duty requires the decision maker to consider the need to promote equality for persons with “protected characteristics” and to have due regard to the need to i) eliminate discrimination, harassment, and victimisation; ii) advance equality of opportunity; and iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it. In order to do this the decision maker must have sufficient information about the effects of the proposed decision on the aims of the Duty. The Equalities Impact Assessment at appendix E is designed to assist with compliance with this duty. Its purpose is to assess whether there are any barriers in place that may prevent people with a protected characteristic using a service or benefiting from a policy. The decision maker must take into consideration the information in the assessment alongside the general Public sector equality duty before taking the decision.

The Council has received external legal advice in relation to these proposals. Further details are set out in Appendix H (exempt). The proposals for the City Leap structure are consistent with the advice received to date, however, further detailed legal advice will continue to be taken as the project develops.

Legal Team Leader: Eric Andrews, Senior Solicitor

Date: 18/03/19

3. Implications on IT:

There are a number of IT Implications arising from this report. First are the arrangements for provision and support of IT systems and services; for the BCC companies these can be quite specialist and are outside BCC core services offer, therefore specific arrangements will be required. Secondly, the integration of company systems and exchange of data between BCC and other companies (whether BCC owned or not) is a matter of some complexity and will require both business and technical analysis. In order to deliver both of these identified implications, plus others as yet unidentified, will require appropriate change and technical resources to be mandated via the CLB prioritisation processes

IT Team Leader: Ian Gale, Head of ICT

Date: 18/03/19

4. HR Advice:

The project team that is established will be recruited to in accordance with the Council’s HR policies. This is also a requirement for highly technical and specialist advice which will be commissioned through the Council’s managed service provider for agency and interim staff.

There is the potential for transfer of energy services into the City Leap structure subject to Cabinet approval. Any such proposals will form part of detailed proposals made by potential strategic partners and negotiations with them during the procurement process.

HR Partner: Celia Williams, HR Business Partner – Growth & Regeneration

Date: 19/03/19

Background Documents: City Leap Prospectus

EDM Sign-off	Colin Molton	19 th February 2019
Cabinet Member sign-off	Councillor Kye Dudd	19 th February 2019
CLB Sign-off	Mike Jackson	19 th February 2019
For Key Decisions - Mayor's Office sign-off	Mayor's Office	4 th March 2019

Appendix A – Further essential background / detail on the proposal	YES
Appendix B – Details of consultation carried out - internal and external	NO
Appendix C – Summary of any engagement with scrutiny	YES
Appendix D – Risk assessment (see Appendix A)	NO
Appendix E – Equalities screening / impact assessment of proposal	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Exempt Information /G(i) Detailed Financial Commentary; G(ii) External Financial Advice	YES
Appendix H – Exempt Information / External Legal Advice	YES
Appendix I – Exempt Information	YES
Appendix J – HR advice	NO
Appendix K – ICT	NO