

CABINET	AGENDA ITEM No. 7
10 JULY 2017	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor Seaton, Cabinet Member for Resources		
Contact Officer(s):	John Harrison, Corporate Director: Resources	Tel. 01733 452520	

AMENDMENT OF EXISTING LOAN ARRANGEMENTS TO EMPOWER

R E C O M M E N D A T I O N S	
FROM : Councillor Seaton, Cabinet Member for Resources	Deadline date : N/A
<p>It is recommended that Cabinet:</p> <ol style="list-style-type: none"> 1. Approve the amendment of the terms of the Strategic Partnership with Empower Community Management LLP as set out at paragraph 4.2; 2. Approve the amendment of the financing agreement with ECS Peterborough 1 LLP; 3. Approve the Council entering into such further agreements with ECS Peterborough 1 LLP and any other body necessary to facilitate the arrangements set out in this report; and 4. Delegate to the Corporate Director, Resources and the Director of Governance the ability to finalise matters 1 to 3 above. 	

1. ORIGIN OF REPORT

1.1 This report is submitted to Cabinet following a request from Councillor Seaton, Cabinet Member for Resources

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to authorise the extension of the existing funding facility provided by the Council to ECS Peterborough 1 LLP (ECSP1) which was authorised and increased by decisions DEC14/CAB/112, OCT15/CMDN/84, OCT15/CMDN/85 and SEPT16/CAB/53 and FEB17/CAB/20.

2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.1, '*To take collective responsibility for the delivery of all strategic Executive functions within the Council's Major Policy and Budget Framework and lead the Council's overall improvement programmes to deliver excellent services.*'

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/A
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4. BACKGROUND TO DECISION

4.1.1 In December 2014 by DEC14/CAB/112 Cabinet resolved to approve that Council entered into a strategic partnership agreement with Empower Community Management LLP to enable a first project to deliver solar PV on private residential properties in Peterborough. Cabinet also resolved that the Council entered into a shareholder agreement to become an equal partner in a Community Interest Company with Empower Community Management

LLP and that Council entered into a finance agreement with Empower Community Services Peterborough 1 LLP (ECSP1). The company into which the Council lends is ECSP1. The value of this decision was £4.45m.

- 4.1.2 By subsequent Cabinet Member Decision Notices and CMDNs set out in paragraph 2.1 above, the scope of the scheme and the value of the loan to ECSP1 has been increased.

4.2 Proposal to Extend the PCC Funding Facility

4.2.1 Empower Community Management LLP intends to undertake a refinance of all its projects which will have completed by September 2017. These include the projects held within ECSP1 as well as other vehicles owned by Empower Community Management LLP. This means that the existing Council loan to ECSP1 for completed projects will be repaid upon completion of that refinance.

4.2.2 ECSP1 has a number of projects that will still be ongoing after September 2017 and which will require intermediate funding beyond October 2017. ECSP1 also has the opportunity to continue to implement new projects including, but not limited to, councils, housing associations, water authorities, NHS trusts and communities in general after October 2017.

4.2.3 The Council's funding facility for ECSP1 is contracted to terminate in October 2017 but the Council has the opportunity to extend the facility to March 2019 and thereby continue to receive the interest on the funding of new projects and existing projects which will complete after September 2017, until they too are completed and refinanced.

5. CONSULTATION

- 5.1 Appropriate professional consultation has been sought from the Council's legal and financial advisors.

6. ANTICIPATED OUTCOMES

- 6.1.1 The proposals in the report:
- are in line with the Environment capital policy of the Council
 - generate investment returns for the Council

7. REASONS FOR RECOMMENDATIONS

- 7.1. Generate a surplus income which will contribute to the Renewable Energy Savings targets in the MTFS.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 The Council has a discretion as to whether to extend the duration of the funding facility to ECSP1. However if the Council does not proceed it would lose the opportunity to receive the additional interest income from the projects financed in the period of the extension until their completion and subsequent re-financing takes place.

9. IMPLICATIONS

9.1 Financial

9.1.1 The total amount currently allocated from the Invest to Save budget to ECSP1 is £77m. As projects are refinanced and the loan is repaid to the Council an additional £50m has been allocated from the Invest to Save budget.

9.1.2 ECSP1 will continue to be funded by the Council during the period of the loan extension at a commercial rate of interest (in accordance with Market Economy Investor Principles) until such time as the projects complete and transfer to long term funding with a private investor. The Council will receive returns from the interest income on the investment.

- 9.1.3 The income to the Council from the proposed facility extension will depend on the value of new projects that may be funded and the length of time they take to complete and refinance.
- 9.1.4 Security for the loan is taken by way of a Debenture which provides the Council with the right to acquire the assets should the loan not be repaid at the appropriate time. The Council under the original agreement may 'step in' to take control of ECSP1 in a situation where there is a default on the loan.
- 9.1.5 The Council also has further securities in relation to the drawing down of funds for the operation of ECSP1 in delivering the installations. All cash transactions will continue to be managed by NCM Fund Services Limited an FCA registered company operating to strict criteria set by the Council as to when funds can be released.

9.2 **Legal**

- 9.2.1 The Council has the ability to lend to ECS Peterborough 1 LLP under the Local Government Act 2003 "power to invest" as well as under the general power of competence. In making any such investment the Council is required to give regard to the Government's commentary to the Guidance on Local Government Investments, as well as the statutory guidance issued by the Secretary of State and specific guidance published by the Chartered Institute of Public Finance and Accountancy. Furthermore, any such investment must be consistent with the Council's Annual Investment Strategy. Any request for funding from the Invest to Save budget will also be made in accordance with the Council's Constitution and applicable Contract Rules.
- 9.2.2 Unlawful state aid occurs where a benefit is granted from a public resource for free or on favourable terms which distort competition. The lending scheme structure follows market principles and as such and there is no unlawful state aid implication. However, this situation will also continue to be monitored to ensure that no state aid issues arise during the period of the loan.

10. **BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

- Cabinet Decision DEC14/CAB/112;
- Cabinet Member Decision OCT15/CMDN/84;
- Cabinet Member Decision OCT15/CMDN/85;
- Cabinet Member Decision SEPT16/CAB/53; and
- Cabinet Member Decision FEB17/CAB/20.

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