

<b>SUSTAINABLE GROWTH AND ENVIRONMENT CAPITAL SCRUTINY COMMITTEE</b>	<b>Agenda Item No. 5</b>
<b>20 JANUARY 2014</b>	<b>Public Report</b>

## Report of the Executive Director of

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## BLUE SKY PETERBOROUGH

### 1. PURPOSE

- 1.1
- To provide an update on Blue Sky Peterborough Ltd and general energy developments.
  - To respond to the Committee's request for further information on the extent of the control or influence which an Overview & Scrutiny Committee can exercise over a wholly owned Council Company and the sanctions and controls which the Council has available to it.
    - This is referred to within the report but is responded to more directly and set out as Appendix 1.

### 2. RECOMMENDATIONS

- 2.1 The Committee is asked to consider the update on energy matters including the Councils wholly owned ESCO Blue Sky Peterborough Ltd.
- 2.2 The future role of scrutiny in respect of the above and in particular with respect to BSP.
- 2.3 Consider the period for the next energy update report.

### 3. LINKS TO THE SUSTAINABLE COMMUNITY STRATEGY

- 3.1 The Energy work supports:
- The Environment Capital Action Plan (ECAP) that outlines how the Council Intends to deliver against the 'Creating the UK's Environment Capital' strategic priority.
  - The Council's Objective of increasing income to support the Councils Medium Term Financial plan.

### 4. BACKGROUND

- 4.1 The Committee asked for an update on energy matters in July 2013. A briefing note was sent to all members of the committee on 5 August 2013.

No comments or feedback was received regarding this update.

This report seeks to build upon the last update.

## **5. KEY ISSUES**

### **5.1 WHOLLY OWNED COMPANIES**

A briefing note outlining the role and purpose of establishing a wholly owned company is included at Appendix 1. This also provides an overview of the extent of control or influence which the scrutiny can exercise over a wholly owned council company.

### **5.2 BLUE SKY PETEBOROUGH LTD**

A number of opportunities have arisen or are likely to arise that places the Council in a position where it could commercially, individually or with a partner, and make a profit. To be able to do this the Council is required to operate through a limited company.

Cabinet at its meeting on 13 June 2011 resolved:

1. To authorise the Executive Director – Strategic Resources to establish a limited company as an energy services company (ESCO) to be wholly owned by Peterborough City Council.
2. To authorise the Executive Director – Strategic Resources to approve the business case for the ESCO in consultation with the relevant cabinet portfolio holders before trading commences.
3. To authorise the Executive Director – Strategic Resources, in consultation with the relevant cabinet portfolio holders, to establish additional organisations such as limited companies, or limited liability partnerships, either wholly owned or in partnership with investors and other public and private sector organisations, as required, to pursue other energy related projects.

The primary reason for the establishment of the ESCO, therefore, was to take advantage of powers to trade commercially. As all shares in the ESCO were to be held by the Council, it gave the Council complete control of what commercial opportunities it could take advantage of as and when they arose.

In relation to this, on 18 August 2010 The Sale of Electricity by Local Authorities (England and Wales) Regulations 2010 (SI 2010/1910) came into force. This allows local authorities to sell energy which they produce from renewable energy sources back to the national electricity grid. "Renewable energy sources" includes energy from wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas, and biogases, so the power given by these Regulations is sufficient to cover a very wide range of options.

The ESCO was established as a private limited company on 21<sup>st</sup> September 2011. The Council is the sole shareholder. The Board is currently formed of three directors, being Councillor Elsey as the Cabinet Member for Culture, Recreation and Waste Management, Councillor North as the Cabinet Member for Environment Capital and Neighbourhoods and Mr Harrison as the Executive Director, Resources. The name of the ESCO is Blue Sky Peterborough Limited ("BSP").

The Company has not traded since its incorporation. The ESCO can only operate within any business case mandates that the Council wishes it to pursue. Whilst the council must use the ESCO for the major projects where generation will exceed the council's own usage (including energy from waste and wind/ground mounted solar projects), for other projects it can determine whether it is better for that project to be undertaken by the council or by the ESCO. So far projects have been undertaken by the council directly.

The first contract that BSP has entered into is with "City Fibre" – a broadband infrastructure developer. This contract is to support the ESCO's ongoing energy services infrastructure strategy in the city (see section 4 below on Regeneration).

The Cabinet report recognised that in due course the role of scrutiny in respect of BSP would need to be determined:

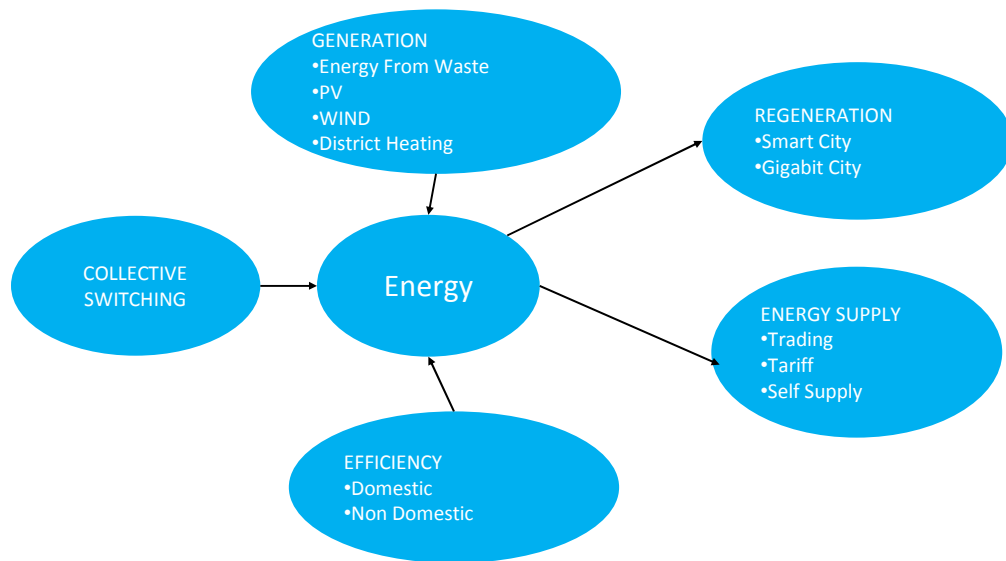
'The activities of the ESCO as a trading company will fall within the scrutiny remit of the Sustainable Growth and Environment Capital Scrutiny Committee, although the detail of the terms of the Committee's terms of reference in respect of the company are yet to be finalised.'

### 5.3

#### ENERGY DEVELOPMENTS

The following are the areas of focus that are currently being pursued:

### ENERGY THE DRIVER



#### 5.3.1

##### COLLECTIVE SWITCHING

###### (a) Domestic Switching Scheme

The Council runs a domestic switching scheme with auction provider IChoosr on behalf of a number of other councils named 'Ready to Switch'. To date there have been 4 switching rounds with another currently in progress.

From the first three rounds, 3,593 participant households have switched to a new tariff from the Ready to Switch scheme. This is around 10% of the 35,445 households that have registered for the Ready to Switch scheme to date; although this figure may increase soon as Round 4 is currently still open for accepting offers. In total, this has provided switchers with estimated energy savings of £427,092. This aggregated level of saving should be of particular benefit to those in fuel poverty.

The current level of switching (10%) is in line with expectations, and it is expected to continue in the upcoming Round 5 auction (and beyond). Equally, the number of households that have registered so far, the participation of the major energy companies in the switching auction and the level of average savings offered are all indicative of both the success of the domestic switching scheme so far and its ongoing potential for reducing the energy spend of Peterborough residents. Further details can be found in Appendix 2.

### **(b) SME Switching**

In July 2013 the UK's first switching scheme for Small and Medium Enterprises (SMEs) was launched on behalf of the following councils:

- Peterborough City Council
- Blackpool Council
- Luton Borough Council
- Wiltshire Council
- Northumberland County Council
- South Holland District Council

The aim of the scheme is to reduce the energy costs for SMEs in Peterborough in order to support local business and improve their competitiveness.

While the results of this scheme have been modest with only 29 switches taking place, the scheme is new and innovative and is still believed to have potential. As such, a re-launch of the scheme is being undertaken with iChoosr and the partnering Councils using the lessons learnt from the first round to improve the results in the second round.

### **(c) Future Auctions**

The contract with iChoosr also enables the council to run auctions in areas outside of energy supply. As such, the council is currently in discussions with iChoosr to establish other areas for auctions that would be of potential benefit to Peterborough residents.

5.3.2

## **ENERGY GENERATION**

### **(a) On site**

The Council has already installed solar panels at 16 buildings in the area with an installed capacity of 802 KWP. These are on operational, commercial and school roofs.

A further phase of solar panel installation is being evaluated at the moment which includes:

- Schools
- Skills Centre (future development)
- Bushfields Sports Centre
- Jack Hunt Swimming Pool
- Material Recycling Centre
- John Mansfield Skills Centre
- Gladstone Park Sport Centre
- Crematorium

The aim is to install solar panels on as many of these as possible, and where practicable, before the next reduction in the electricity feed in tariff rates (from April 2014).

We are also exploring the possibilities of building out solar generation on large scale commercial roofs in the city.

### **(a) Off site**

#### **Americas Farm, Morris Fen and Newborough**

The major areas being considered are the Americas Farm, Morris Fen and Newborough sites for wind and ground mounted. These projects have recently been considered by the Scrutiny Commission for Rural Communities at its meeting on 16<sup>th</sup> December 2013:

'The Commission recommends to Cabinet [that the Council]:

- Immediately stops both options 1 solar and 2 wind for the America Farm project due to the negative income predicted for the delayed project
- Stops the solar panel option (1) on all three sites (America Farm, Newborough and Morris Fen) due to the significant total expenditure of £296 million, a poor return of £21 million net income and a Net Present Value figure of only £10.5 million'

Cabinet will be considering this matter at its Budget meeting on 3<sup>rd</sup> February 2014.

#### **(b) Energy from Waste "EFW" Plant**

The Council has also agreed to establish an EFW plant to deal with the city's domestic waste and the plant is currently under construction by Viridor. The EFW will produce 7.2 MW of energy when it goes live in 2015.

The plant is also Combined Heat and Power "CHP" enabled and the Council is currently evaluating the financial benefit of utilising the heat.

#### **(c) District Heating Scheme**

The Council is also evaluating the creation of a district heating scheme based around the core locations of Regional Pool, Lido and Town Hall. As part of this work a feasibility study is being undertaken to consider the viability of extending this core scheme across the city centre. Further feasibility studies will also be undertaken to consider the application of this across other areas of the city and also any connectivity to the EFW plant.

#### **(d) Acquisition and Development**

In addition to developments in and around the city we are also examining the possibility of wind, ground mounted and EFW schemes across the UK.

### 5.3.3

#### **ENERGY EFFICIENCY**

##### **(a) Domestic**

Cabinet at its meeting on 25<sup>th</sup> March 2013 agreed to enter into a Strategic Partnership with British Gas. In September 2013 the Heatborough campaign was launched with the aim of delivering ECO ("Energy Company Obligation") efficiency improvements to households – particularly to those in fuel poverty – in the Peterborough area. To date 69 applications have been submitted, of which 7 have had all measures completed and 12 are still going through the application process. Work is currently underway on better engagement of local contractors with the aim of increasing local employment and increasing the delivery of ECO into the city.

The Council is also in discussions with British Gas around the launch of a competitive local energy supply package for domestic properties in the area. Subject to final details, it is anticipated that this will be launched by the end of February 2014. This will be the UK's first market-leading retail energy package of this type; offering both a competitive tariff for energy, as well as support for homeowners – particularly with those lower incomes – to install ECO and Green Deal energy efficiency measures. The intention is that after the Peterborough implementation, British Gas will roll this package out across the UK.

In due course we will be examining a non-domestic equivalent.

##### **(b) Non Domestic**

The Cabinet portfolio holder authorised the Council to enter into an Energy Performance framework agreement (EnPC) with Honeywell Control Systems (“Honeywell”) in June 2013 by which energy efficiency improvements would be made initially to Council properties with the possibility of widening the scope of the scheme to other local authorities, social housing and other organisations.

The first call off contract under the framework (“Phase 1”) was entered into in December 2013 and details are contained in the appendix 3. There are two main types of proposals:

- Energy conservation measures (ECM’s) – the savings generated more than offset the costs of delivering the scheme, and each project makes a surplus. The next surplus contributes to the MTFS targets outlined in 6.4 below
- Pool Filters – these are schemes that the Council needs to undertake across its pools, and has made appropriate budgetary provision for this work. The energy savings do not fully offset the investment costs, but as the Council has budget for the works, all of the energy savings contributes towards the MTFS targets

A summary of these proposals can be seen below:

	<b>Total Cost £K</b>	<b>Saving £K</b>	<b>Net £K</b>
ECM's	1,835	2,328	493
Pool filters	1,350	585	-765

The overall contribution to the Councils MTFS is £1.078m (ECM net surplus of £493K plus the pool filter savings of £585K)

In addition should the guaranteed savings figure be exceeded to the levels expected by Honeywell then the savings could increase by £210k. The council will also save significant future maintenance costs by replacing the pool filters at this stage (estimated to be around £1.2m of cost avoidance).

In the first years of the contracts the energy savings are as follows (the ECM figures are the net surplus, the pool filter figures represent the total income):

	<b>2014/15 £K</b>	<b>2015/16 £K</b>	<b>2016/17 £K</b>
ECM's	60	4	16
Pool filters	21	31	32
<b>TOTAL</b>	<b>81</b>	<b>35</b>	<b>48</b>

Honeywell is now preparing an outline business case for a district heating system for the city. They are also scoping potential works at:

- (a) Peterborough Regional college
- (b) Cross keys – non domestic properties
- (c) Cresset theatre

Initial engagement has started with the Council's schools which will be the next priority area together with other PCC assets not covered by the Phase 1 works above.

#### 5.3.4 REGENERATION

The Council is currently undertaking a review of its regeneration sites and is considering third party funding opportunities in order to bring forward new commercial and residential development within the city boundaries.

The deep recession has seen a prolonged period of under investment in development

opportunities across the UK. One reason for this is the unwillingness of developers to meet the cost of energy and civil infrastructure costs (and planning carbon offset obligations, such as "Allowable Solutions"). The powers of the ESCO are sufficiently wide to allow the ESCO to participate as a potential "enabler" of infrastructure (which could be funded through Prudential borrowing). Subject to satisfying regulatory compliance issues, the approach would create a long term secure income stream for the ESCO through "Distribution and Use of Network" charging.

The impact would be twofold for the Council:

- Actively helping to meet the challenge of enabling and unlocking development in Peterborough; and
- Providing investment into the local economy, other than by way of grant funding methods. Notably, grant funding would provide economic development, but would not provide a long term income return back to the Council on the infrastructure capital injection.

The Council should note that it can always sell infrastructure assets to one of the seven independent network operators at a future date. This would allow the Council to recover any borrowing costs incurred (with a potential profit, given the income generative element to the asset).

As part of the regeneration strategy, we are also examining the feasibility of the introduction of smart energy grids in the city and the rollout of smart energy meters.

### 5.3.5 ENERGY TRADING

The ESCO was established to trade surplus energy. Obviously the first priority will be to supply the Council's own needs. This is a key reason why the ESCO was incorporated to allow the Council to legitimately trade in accordance with Public Law requirements.

The sale of surplus energy is one of the key ways which the Council has identified additional long term revenue income streams. The sale of energy to the community and businesses is a stated Council aim. This should help provide certainty and stability in energy pricing for the local community.

To enable the above to be achieved then the Council will need to consider the appropriate route to sell the energy to create that benefit. In addition it obviously needs the energy supply available to do it.

A key decision for the Council will be in determining the balance between income generation for general budget purposes and the level of subsidy it wants to place in the 'local tariff'.

### 5.3.6 POTENTIAL PARTNER ORGANISATIONS AND OTHER COUNCILS

#### (d) Empower Community Ltd

As part of the evaluation around the large scale wind and ground mounted projects the Council was introduced to Empower. Several meetings have taken place to consider how the organisation may be used in the city. This may be as an alternative to Council build out or may be another route to developing other assets in the city. A report on the options will be presented to Scrutiny and Cabinet in due course.

#### (e) Swindon Council

We are currently examining entering into a memorandum of understanding with Swindon. The Council has established a trading arm which delivers large scale pv contracts. This may provide a competitive route to procurement that is already OJEU compliant.

#### **(f) Mears Contract for PV**

The framework agreement which the Council has entered into with Mears is open to other councils and housing associations. Mears has now developed a fully private funded solution for delivery of PV on social housing. This is generating significant interest and the Council will financially benefit from other organisations use of the framework

#### **(g) Honeywell contract for EnPC**

The contract is open to other councils and housing associations. There are several councils examining the use of the framework at present. In particular the local REIP are supporting three Essex councils to look at early adoption. Hertfordshire County council are also engaged in the process. The Council will financially benefit from other organisations use of the framework

#### **(h) Consultancy support**

There are also a range of councils that are interested in potential support to enable them to examine local energy strategies.

### **6. IMPLICATIONS**

#### **6.1 LEGAL**

Local authorities are established and governed by statute, and can only act where they have a relevant statutory power. Powers must be exercised reasonably and in accordance with the purpose of the legislation to avoid a legal challenge on the grounds that an action is “ultra vires”. This includes the exercise of the general power of competence.

A local authority has a limited number of statutory powers which permits a local authority to trade for profit. Beyond those specific statutory provisions, if a local authority wishes to trade for commercial purposes it may do so (providing there is no statutory duty to provide the services and no other statutory power to trade) but subject to a number of constraints. The most significant of these constraints is that to trade commercially a local authority must do so only through establishing a separate company. The purpose of this provision to provide a level playing field to the private sector in terms of competition.

In setting up and operating such a company, the local authority must adhere to a number of provisions, including a pre-requisite of approving a business plan, transparency of accounts, restrictions on payments to local authority staff and members when acting through the company and having regard to guidance issued by the Secretary of State.

A restriction contained in s.11(3) of the Local Government (Miscellaneous Provisions) Act 1976 had provided that local authorities may sell energy but only that produced from a heat source. As this prevented local authorities being full participants in the government’s decentralised energy policy, the government made Regulations in exercise of the powers conferred by the 1976 Act which allows local authorities to sell energy they produce from renewable energy sources back to the national electricity grid. This came into force on 18<sup>th</sup> August 2010 as The Sale of Electricity by Local Authorities (England and Wales) Regulations 2010 (SI 2010/1910) “Renewable energy sources” includes energy from wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas, and biogases, so the power given by these Regulations is sufficient to cover a very wide range of options.

#### **6.2 PROPERTY**

The works to be undertaken by Honeywell as part of the ENPC have several benefits to the council such as :-

- extending the life of our building assets
- reduce utility costs both gas and electric



- Substantial CO2 savings helping to achieve the councils green ambitions.
- Reduce the maintenance back log to the property estate
- Provide a guaranteed energy saving return on capital investment

When the next phases of the ENPC contract come forward such as the district heating scheme and works to Schools the council will benefit from further savings and CO2 reductions in line with the above.

Overall the ENPC framework provides PCC with the opportunity to undertake substantial works to the property estate which will guarantee a return on the investment. Without this return on investment it is unlikely the council would have the capital monies to invest in the proposed schemes in the period of austerity.

### 6.3 ENVIRONMENTAL

The actions and work outlined are fully aligned with the councils Environmental capital ambitions.

### 6.4 FINANCIAL

6.4.1 The Council has the following savings already incorporated into the MTFs:

	2013/14	2014/15	2015/16	2016/17	2017/18
	£k	£k	£k	£k	£k
Energy initiatives	450	450	450	450	450
Net Income from wind and ground mounted solar projects (Americas Farm, Morris Fen and Newborough)	-323	274	3,774	4,193	4,452

Savings generated from a number of the initiatives outlined in this report will contribute towards the £450k target. In most cases this will be where there is a surplus of income over and above the investment and procurement costs of establishing the projects.

If the projects outlined in this report cannot deliver these savings, then the council will need to find savings elsewhere across the council.

6.4.2 As outlined earlier in the report, energy projects so far have been undertaken directly by the Council, and not through BSP. As such standard council processes apply (including contract regulations, financial regulations and other relevant elements of the constitution)

6.4.3 Work is underway to develop the financial procedures for BSP in anticipation of it becoming operational. This will include all operational and governance elements such as financial regulations, banking and financing arrangements, accounting policies payments processes and authorisation etc. The Council's own finance team will be heavily involved in establishing these, prior to approval by BSP.

6.4.4 Once operational, BSP will be required to produce annual accounts. As a wholly owned company of the Council, these accounts will also be incorporated into the Council's group accounts.

### 7. CONSULTATION

7.1 Internal only with the exception of the schemes at Americas Farm, Morris Fen and Newborough

## **8. NEXT STEPS**

8.1 The Scrutiny is asked to:

- Receive and comment on the report
- consider its future role on the monitoring and delivery of energy matters and in particular scrutiny of the ESCO
- the timescale for any future reports

## **9. BACKGROUND DOCUMENTS**

None

## **10. APPENDICES**

- 10.1
1. Wholly owned Council Company
  2. Collective switching scheme
  3. EnPC December 2013 call off contracts with Honeywell