

## **Your Energy Sussex Partnership Agreement**

### **Report by the Director for Communities**

#### **1. Summary**

- 1.1. This is a delegated decision report which follows the submission of two previous reports to JSC, in November 2012 and April 2014.
- 1.2. The November 2012 report recommended Adur and Worthing councils to sign up as an affiliate partner with the Your Energy Sussex scheme. This was approved by JSC.
- 1.3. The April 2014 report recommended upgrading this partnership to the higher level of strategic partner based on new criteria for strategic partners (i.e. the removal of the requirement to financially support the Your Energy Sussex scheme),. This proposal was accepted in principle as long as the interests of Adur and Worthing councils were not negatively impacted by the strategic partnership agreement. As this document was still in development by Your Energy Sussex the final decision was delegated to the Leaders of the Councils.
- 1.4. The full partnership agreement has now been reviewed by Legal who have ensured it protects the interests of Adur and Worthing Council.

#### **2. Background**

- 2.1. The Your Energy Sussex model is a delivery platform for energy efficiency measures whereby District, Borough, City and County Councils in East and West Sussex participate either as affiliate or strategic partners.
- 2.2. This scheme is essentially a community investment model, whereby the fund managers are the Local Authority partners within East and West Sussex.
- 2.3. The YES partnership has secured a £66 million fund provided by the Local Enterprise Partnership (LEP) which allows borrowing from the LEP at preferential rates of 0.2 % below PWLB borrowing rates.
- 2.4. Your Energy Sussex has four guiding aims:
  - help all residents to create warmer, healthier homes and reduce carbon emissions;
  - help boost the local economy by creating work for local businesses;

- create opportunities for the local workforce, including work placements, apprenticeships and skills development
  - help vulnerable residents and those at risk of struggling to pay their fuel bills.
- 2.5. Affiliate partners to Your Energy Sussex have no obligation to the programme other than to use it at their discretion for the delivery of energy efficiency improvements and upgrade measures. They do not have voting rights on the boards of the YES structure.
  - 2.6. Strategic partners are similarly able to use the scheme for the delivery of energy efficient measures, but also act upon the strategic and project boards, thereby providing direction and support to the delivery of the overall framework. This participation is limited to providing officer time to support the scheme and to attend the relevant board meetings. No financial commitment is involved.
  - 2.7. Strategic Partners benefit from equal voting rights on disposal of funds from the £66m LEP pot and funds generated by returns on energy efficient measures which are intended to be continually reinvested.
  - 2.8. Carillion is Your Energy Sussex's OJEU procured delivery partner, and has the resources to deliver programs at scale and pace which we do not have within Adur and Worthing Councils. They have developed a tiered approach whereby they deliver projects through local businesses in combination with key national partners who leverage ECO funds and carry out community engagement.
  - 2.9. The November 2012 report introduced the Your Energy Sussex partnership and recommended our participation as an affiliate partner. This proposal was accepted and approved by JSC.
  - 2.10. The April 2014 report put forward alternative option whereby Adur and Worthing councils could become a strategic partner (and therefore have full voting rights and a steering role within the partnership) with no financial investment required. This proposal was approved in principle by JSC, but on the proviso that our interests were not negatively impacted. As such the final decision was delegated to the Leaders of the Councils.
  - 2.11. Since April 2014 the partnership agreement has been defined and finalised by Your Energy Sussex (attached), and our scrutiny has now been completed to ensure the agreement does not negatively impact Adur Worthing's interests. Legal has advised that the attached partnership agreement is suitable for signature.
  - 2.12. Earlier proposals that the YES partnership be a "Company Limited by Guarantee" have been discontinued in favour of a simple partnership contract, with WSCC ultimately responsible for the partnership's liabilities and financial risks.
  - 2.13. The structure of the partnership agreement document is such that no specific project resources or commitments are specified, the agreement being silent on that issue and therefore not binding. As such our interests are protected in that we have the freedom to source contractors and funding for renewable and energy efficiency measures outside of the Your Energy Sussex framework, should we deem it beneficial.

- 2.14. Whichever partnership level we adopt, the partnership agreement allows the flexibility and freedom to move between the two levels of membership should we opt to reconsider later. There is also a provision to exit the partnership completely, subject to any financial commitments being settled (i.e. projects already under way).

### **3. Proposals**

- 3.1. This report advocates Adur and Worthing councils adopt the partnership as a Strategic Partner.
- 3.2. The primary difference between the two membership options is that as an affiliate partner we would be a silent participant in the Your Energy Sussex scheme with no voting rights.
- 3.3. As a strategic partner Adur and Worthing Councils will be able to vote on project selection, and how the Your Energy Sussex funds are administered and directed within the Your Energy Sussex partnership areas. This means that we could steer financial investment to best reflect the needs of YES and, importantly, the Councils and our residents.
- 3.4. While precise levels of resource commitment are not yet clear due to the relative newness of this project, it is expected that the commitment would be similar to any other board or project commitment, and would be incorporated in the existing workloads of nominated officers.

### **4. Legal implications**

- 4.1. Section 1 of the Localism Act 2011 provides local authorities with a general power of competence and local authorities have the power to do anything that individuals generally may do, including the power to form and participate in a company. The general power also confers on a local authority the power to do things for a commercial purpose provided it acts in accordance within any statutory limitations or restrictions.

### **5. Financial implications**

- 5.1. There are no direct financial implications directly connected with becoming a strategic partner of the Yes Energy Sussex partnership. As a member of the partnership, the Councils will be able to influence how the Your Energy Sussex fund is used to the benefit of our residents.
- 5.2. Any individual projects developed under the Your Energy Sussex partnership would be subject to separate approval

### **6. Recommendation**

- 6.1. To the Leader of Adur District Council that it:
  - (a) becomes a Strategic Partner in the Your Energy Sussex (YES) Partnership
  - (b) Nominates a representative of the Council to be on the YES Strategic Board
  - (c) Approves the Officer time required to act on the YES Project Board

- 6.2. To the Leader of Worthing Borough Council that it:
- (a) becomes a Strategic Partner in the Your Energy Sussex (YES) Partnership
  - (b) Nominates a representative of the Council to be on the YES Strategic Board
  - (c) Approves the Officer time required to act on the YES Project Board

**Local Government Act 1972**

**Background Papers:**

JSC report November 2012  
JSC report April 2014  
Your Energy Sussex partnership agreement

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## **Schedule of Other Matters**

### **1.0 Council Priority**

- 1.1 Supporting and improving the local economy
- 1.2 A mixed economy of Partnership working
- 1.3 Ensuring value for money and low Council Tax

### **2.0 Specific Action Plans**

- 2.1 Fuel poverty Action plan
- 2.2 Sustainability Strategy

### **3.0 Sustainability Issues**

- 3.1 The YES Programme aims to save energy and energy costs throughout the Sussex counties. This will reduce CO2 emissions, minimise resource use, generate local employment opportunities, support businesses and preserve money within the local authority areas that would otherwise have been spent on utility costs.  
The programme will also aim to tackle fuel poverty and improve the health and well-being of people living in under heated homes

### **4.0 Equality Issues**

- 4.1 Matter considered and no issues identified

### **5.0 Community Safety Issues (Section 17)**

- 5.1 Matter considered and no issues identified

### **6.0 Human Rights Issues**

- 6.1 Matter considered and no issues identified

### **7.0 Reputation**

- 7.1 the Association with a reputable and efficient delivery vehicle providing environmentally sound and financially beneficial energy efficiency projects will be a significant reputational enhancement to Adur and Worthing Councils

### **8.0 Consultations**

- 8.1 Matter considered and no issues identified

### **9.0 Risk Assessment**

- 9.1 Matter considered and no issues identified

### **10.0 Health & Safety Issues**

- 10.1 Matter considered and no issues identified

## **11.0 Procurement Strategy**

11.1 This project fits within the guidelines for EU procurement. It also allows us to deliver large-scale projects without further need for lengthy procurement processes.

## **12.0 Partnership Working**

12.1 The overall project is a strong partnership with all local authorities throughout East and West Sussex. We will also be partnering with local businesses, the designated YES provider (Carillion) and other partners within the overall YES governance structure