

MARCHES LEP BOARD MEETING PAPER

Meeting Date:	11 August 2020					
Agenda Item:	2					
Item Subject:	Review of Local Growth Fund Programme Commitments and Underspend					
For:	Discussion	X	Decision	X	Information	

Purpose:

- 1) To update Board Members on progress in delivering Local Growth Fund / Growth Deal funded projects.

Recommendations:

- 1) To note the Local Growth Fund Overview position relating to the 24 March 2020 LEP Board decision, as set out in section 1.
- 2) To note the withdrawal of both the Rural Enterprise Centre and Ross Enterprise Park projects as set out in sections 2.1, 2.2 and Appendix 1
- 3) To note the current position relating the issuing of the Notice of Termination and Grant Clawback relating to the South Wye Transport package, as set out in section 3.2.
- 4) To note the explanation provided in respect to the delivery of the South Wye Transport Package, as set out in section 3.3 and Appendix 2.
- 5) To note Herefordshire Council's response to the Notice of Termination and Grant Clawback, as set out in section 3.4.
- 6) To agree to **not** allocate any further LGF funds to projects within the reserve list, as set out in section 4 and table 5.
- 7) To note that should the position in respect to the repayment of the £3.8million change over the coming weeks it is recommended the LEP Board convene an Emergency LEP Board Meeting to consider the allocation of any available Funds.
- 8) To consider allocating projects within the reserve list (table 2) a loan through the Marches Investment Fund pot (subject to eligibility requirements), as set out in section 4.

1. Local Growth Fund Programme Overview

At the 24 March 2020 LEP Board meeting a decision was taken to overcommit the Local Growth Fund (LGF) programme by £2,438,958. This overcommitment figure included income of £3.8million relating to the 27 January 2020 decision to terminate (with immediate effect) the Funding Agreement between the LEP and Herefordshire Council for the South Wye Transport Package (SWTP). Please see section 3.1 for an overview on the SWTP decision.

Table 1 – LGF Programme Overview

LGF Programme Overview	
Local Growth Fund Programme Allocation	£ 104,887,505.00
24 March 2020 LEP - Project Approvals*	£ 107,326,463.00
Programme Overcommitment *	£ 2,438,958.00

**Including £3.8million of income relating to the repayment for South Wye, see section 3.2.*

To help mitigate risk around spend a reserve list (formed from the £27million project call) was also approved - providing the LEP with projects that could be funded retrospectively in the event of surplus Growth Deal funds becoming available, please see table 2.

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Table 2 – Reserve List

Project	Growth Deal Value
Rural Enterprise (Bishop's Castle only)	£ 2,251,000.00
Harper and Keele Veterinary School	£ 2,500,000.00
The Shell Store (currently in receipt of LEP Marches Investment Funds)	£ 2,493,000.00
Total	£ 7,244,000.00

2. Local Growth Fund Programme – Withdrawal of Projects

2.1 Rural Enterprise Centre

At the 21 July 2020 LEP Board Meeting members were informed of the decision taken by Herefordshire, Ludlow and North Shropshire College to withdraw the Rural Enterprise Centre project (allocated £1,059,905 for the 2020/21 FY) from our LGF Programme.

2.2 Ross Enterprise Park Project

Following discussions at the 21 July 2020 LEP Board Meeting the LEP has now received formal notification from Herefordshire Council that the Ross Enterprise Park (allocated £4,500,000 for the 2020/21 FY) cannot proceed as part of the LGF Programme due to constraints requiring all grant to be defrayed by 31 March 2021 (see appendix 1).

Table 3 – Projects withdrawn from LGF Programme

Projects Withdrawn from LGF Programme	
Rural Enterprise Centre	£ 1,059,905.00
Ross Enterprise Park	£ 4,500,000.00
Totals	£ 5,559,905.00

Table 4 – Updated LGF Programme Position (including projects withdrawn)

LGF Programme Overview	
Local Growth Fund Programme Allocation	£ 104,887,505.00
24 March 2020 LEP Board - Approval	£ 107,326,463.00
Withdrawn Projects (Table 3)	£ 5,559,905.00
LGF Programme Position (Value of 24 March 2020 approval minus withdrawn projects)*	£ 101,766,558.00
Under commitment Position*	£ 3,120,947.00

**Including £3.8million of income relating to the repayment for South Wye, see section 3.2.*

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3. South Wye Transport Package

3.1 Overview of Termination and Grant Clawback

The £27million SWTP Funding Agreement (contracted in 2016) included the construction of a new road (Southern Link Road) from the A49 to the A465 and a programme of active travel measures, supporting the delivery of homes and jobs outputs.

In May 2019 the then newly elected administration at Herefordshire Council decided to undertake a Pause and Review of the SWTP in the summer of 2019. At the 7 November 2019 Emergency LEP Board meeting Herefordshire Council proposed a revision to the SWTP Funding Agreement which consisted of a two-phased approach:

- Phase 1 – Development of Southern Link Road (SLR) design and consents. Development of SWTP Full Business Case and development and delivery of Active Travel Measures,
- Phase 2 – Delivery and completion of the SLR (subject to the outcome of the review on the SLR) *or* an expanded programme of Active Travel Measures *or* the delivery of new programme of sustainable transport measures.

This approach was not approved. At the 26 November 2019 LEP Board meeting members requested Herefordshire Council confirm in writing by mid-January 2020 their decision in relation to the delivery of the Southern Link Road, with a recommendation of terminating the Funding Agreement if:

1. Herefordshire Council did not complete the Pause and Review on the SLR,
Or
2. Herefordshire Council confirm their decision not to build the SLR, after undertaking the Pause and Review exercise.

Confirmation was received from Herefordshire Council that they would 'aim to conclude the Review by 31 July 2020'. At the 27 January 2020 Board a decision was taken to terminate the Funding Agreement (with immediate effect).

N.B. This £27million project was the largest project in the Marches LEP's £104m LGF programme - the LEP was advised on 24 July 2020 that the Hereford Transport Review will not conclude until the end of September 2020 .

3.2 Notice of Termination and Grant Clawback

The termination of the Funding Agreement for the South Wye Package (SWTP) was agreed at LEP Board on 27 January 2020, together with agreement to start discussions with Herefordshire Council on the claw back of the £3.8m already paid to Herefordshire Council to support the development of the SWTP project.

On 21 July 2020 a Notice of Termination and Grant Clawback was sent from Shropshire Council (in their role as Accountable Body for the Marches LEP) to Herefordshire Council.

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3.3 Herefordshire Council Letter about LEP Funding for the SWTP of 20 July 2020

On 20 July 2020 the Leader of Herefordshire Council wrote to the LEP Chair providing an explanation on the delivery of the SWTP (see appendix 2), sighting governance failures in particular ‘serious concerns about the soundness of the procurement process that had been carried out’, confirming an urgent investigation was undertaken by the council’s internal auditors.

The letter confirms the investigation report ‘identified significant weaknesses in project governance processes’, the advice given was it would be ‘unsafe to award a contract within the requirements of our financial regulations’. The letter also outlines ‘the final business case (which was necessary to draw down the remaining funding) was not ready or able to be submitted through the LEP to the Department for Transport’.

3.4 Herefordshire Council Letter to Shropshire Council (Accountable Body) – 4 August 2020

On 4 August 2020 a letter was sent from Herefordshire Council to Shropshire Council (accountable body for Marches LEP) in response to the Notice of Termination, disputing the right to terminate the agreement and clawback the funding. The LEP executive will now work with the accountable body to consider its position in relation to the response from Herefordshire Council of 4 August 2020 about SWTP.

4. LGF Programme – Allocation of Funds

Table 4 highlights the LGF programme is currently under committed by £3,120,947. This position is based on the LEP Board decision to clawback £3.8million from Herefordshire Council relating to the SWTP - allocating this value of grant to projects at the 24 March 2020 LEP Board Meeting. The requirement from Government is for all LEP’s to have spent their LGF Programme allocation by 31 March 2021.

Section 3.4 sets out Herefordshire’s Council position in respect to the repayment of the £3.8million. Should these funds not be received before 31 March 2021 this would result in the LGF Programme being overcommitted by £722,662.71, as set out in table 5. In addition to the risks related to this financial position, the Marches would also forego the benefit of re-investing this repayment of public funds in other projects which would deliver outputs for the LEP.

Table 5 – Updated LGF Programme Position (including non-payment of £3.8m South Wye)

Current Position	
Local Growth Fund Programme Allocation	£104,887,505.00
Programme Position (As set out in Table 4)	£101,766,558.00
South Wye Funds (As set out in section 3)	£3,843,609.71
Total LGF Programme Position (Programme Position plus South Wye Funds)	£105,610,167.71
Total Overcommitment	£722,662.71

Based on the position outlined in Table 5, it is recommended that the LEP Board **does not** allocate any further LGF funds to projects within the reserve list, acknowledging this would overcommit the LGF

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programme considerably. The LEP Board may wish to consider allocating projects within the reserve list (table 2) a loan through the Marches Investment Fund pot – subject to eligibility requirements.

Should the position in respect to the repayment of the £3.8m change over the coming weeks it is recommended the LEP Board convene an Emergency LEP Meeting to consider the allocation of any available Funds.

Financial implications:

- Should the £3.8m clawback relating to the South Wye Transport package not be received within the 2020/21FY this would cause the LGF Programme to be overspent by £722,662.71 and the LEP Executive will need to identify any project underspend/and or opportunities to reduce LGF grants to make up this over spend .

Legal Implications:

- The LEP will work with the accountable body to consider its position in relation to the response from Herefordshire Council of 4 August 2020 about SWTP

Risks, opportunities and impacts:

- Timescales of project development and delivery need to be carefully managed, including ensuring that adequate resources are in place within the LEP and its accountable body to achieve these.
- If the £3.8m is not repaid and reallocated to another project the LEP has no opportunity to achieve any outputs for this considerable sum of public funds

Appendices:

Appendix 1 – Herefordshire Council letter of 27 July 2020 regarding Ross Enterprise Park to LEP

Appendix 2 – Herefordshire Council letter of 20 July 2020