

WARRINGTON BOROUGH COUNCIL
RECORD OF DECISION TAKEN BY AN OFFICER

DECISION TITLE: SOLAR FARM INVESTMENT

Executive Board Decision No
and/or Forward Plan No
(Executive decisions only)

EB EB69 & EB73 - 8th October 2018

<p>Directorate Ref No (Non Executive decisions only) If applicable</p>	<p>N/A</p>
<p>Decision detail</p>	<p>Further to the Executive Board report of 8 October 2018, and the Record of an Officer Decision of 31 October 2018, the Director of Corporate Services and the Head of Legal and Democratic Services, after consultation with the Executive Board Member, Corporate Finance, decided on the acquisition method and transactional arrangements for each of the solar farms.</p> <p>To confirm, on 8 October 2018 the Executive Board delegated responsibility to the Director of Corporate Services and the Head of Legal and Democratic Services, in consultation with the Executive Board Member, Corporate Finance:</p> <p><i>“for approval of the final acquisition method, the options being set out at section 8.5.2 of the Part 2 report, for each solar farm”.</i></p> <p>The chosen method of acquisition was the same for both farms and was that the Council acquires both sites by way of acquisition of the shares in the Special Purpose Vehicle (“SPV”) for each solar farm (those companies being Energy Store 4 Ltd and Energy Store 6 Ltd) from Gridserve UK Projects Ltd (“Gridserve”). The agreed method was that the Council would acquire 100% of the shares in both SPVs upon practical completion of the construction of both solar farms, whilst making staged payments into an escrow account. This is still the proposed acquisition method.</p> <p>In order to secure the grid connections with Northern Powergrid (without which the project will not be able to proceed), due to the tight timescales it was agreed that the Council would make interim staged payments to the SPVs as detailed below:-</p> <ul style="list-style-type: none"> i. £359,640.70 plus VAT in respect of the Hull site Northern Powergrid costs; ii. £372,000.00 plus VAT in respect of the York site Northern Powergrid costs; iii. £138,750 plus VAT in respect of the Hull site Gridserve costs; iv. £140,000 plus VAT in respect of the York site Gridserve costs. <p>Collectively known as “the Advance”.</p> <p>Items (i) and (ii) of the Advance were in turn paid by the SPVs to Northern Powergrid in order to secure the grid connections as the deadline for the deadline for was <u>31st October 2018</u>.</p> <p>As part of the structuring of the agreement to make payment of the Advance, Gridserve/the SPVs agreed to repay the Advance to the Council, by no later than <u>31 December</u>.</p> <p>To ensure the Council’ was protected in paying the Advance</p>

	<p>to the SPVs, a number of securities were put in place in the event that the Advance was not repaid.</p> <p>The protections are detailed in full the previous Record of an Officer Decision, however in brief, if the Advance was not received by the Council by 31 December, the Council would be able to:</p> <ul style="list-style-type: none"> - Enforce a share charge over the SPVs; or - Novate the grid connections agreements from the SPVs; and/or - Exercise the option on the leases for both sites. <p>In summary, the protections would enable the Council to take overall control of the projects for both sites.</p> <p>Officers working on the project have now been advised by Gridserve that they will not be able to repay the Advance to the Council by the deadline and have asked for an extension to <u>31 January 2019</u> so that they can secure external finance for the projects and in turn repay the Advance. The proposed external finance provider, Investec, have also confirmed that they would not enter into any finance agreement with Gridserve if they were in default under the Council agreement.</p> <p>Although the Council would be able to take the project forward at each site if we exercised the option to take over the projects, a significant amount of work would be required as detailed below:-</p> <ul style="list-style-type: none"> - Procurement of a contractor to construct the two solar farms; - Re-negotiation of the construction contracts which are almost in an agreed form; - The Council would likely have to find a new Sleeving/balancing contractor as Statkraft comes as part of the Gridserve deal; <p>As a result there would be an inevitable delay to the construction and commissioning of both solar farms, which in turn would result in a delay in the Council obtaining the savings from sleeving energy for Hull solar farm, and the income from the York site.</p> <p>The recommendation is therefore that the deadline is extended to 31 January 2019, this should enable Gridserve to obtain external finance for the project and repay the Advance and comply with the agreement.</p>
Reason for decision	<p>The Executive Board delegated the approval of the acquisition method as well as completion of all necessary contracts any related documents to complete the transaction to the Director of Corporate Service and the Head of Legal and Democratic Services.</p> <p>The previous Record of an Officer Decision was to record the decision taken by the Head of Legal and Democratic Services and the Director of Corporate Services, which was decision that was delegated from Executive Board on 2</p>

	<p>October 2018.</p> <p>As the proposal to extend the deadline for payment is being recommended beyond the 31 December 2018 date stated in the previous Record, this Record sets out the reasons for why this has been made.</p>
Decision Maker/Responsible Officer	Lynton Green, Director of Corporate Service and Caroline Owen, Legal Services Manager and Acting Monitoring Officer.
Directorate	Corporate Services
Lead Executive Board Member consulted (if applicable)	Cllr Russ Bowden – Executive Member Corporate Finance
Decision Date	20 December 2018
Date Decision was published / notified (normally within 2 clear working days of decision being made)	
Summary of options considered	Should the Council choose to decide not to proceed in the way proposed in this ODN, Gridserve would likely default in repaying the Advance which would likely lead to the Council having to take over the projects, which in turn would the delays and complications as set out in the “Decision Detail” section.
Interests declared	None
Background Papers (if applicable) <i>(period expires after 4 years from date of decision)</i>	Executive Board Report 8 th October 2018. Record of an Officer Decision
Confidential / exempt information Category (if applicable)	Part 2 report

NB. This form expires after 6 years.