



OFFICER DECISION RECORD

This form should be used to record Executive decisions taken by Officers

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|---|--|----------------|--------------|
| Type of Decision: | Urgent Operational Decision | | |
| Decision Maker: | Graham Farrant, Chief Executive and Head of Paid Service | | |
| Service Area: | Operations | Date: | 24 June 2024 |
| Contact Name: | Ruth Spencer | Tel No: | |
| E-mail: | ruth.spencer@bcpcouncil.gov.uk | | |
| Subject: | Towns Fund Programme – Digital Connectivity Project Private Investment | | |
| Decision taken: | | | |
| <ol style="list-style-type: none"> 1. approves entering into a legal agreement with FinNest Group Ltd to secure £2.5m private investment for the Digital Connectivity project, subject to proof of funds; 2. delegates authority to the Director of Law and Governance in consultation with the Director of Finance and the Interim Director of Investment and Development to negotiate and finalise the detailed terms of the legal agreement. | | | |
| Options considered: | | | |
| Two options are available to BCP Council: | | | |
| (1) Enter into the legal agreement to enable the Towns Fund private investment co-funding | | | |
| (2) Not enter into the legal agreement to enable the Towns Fund private investment co-funding | | | |

Table 2: Option Benefits and Disbenefits

| Option | Benefits | Disbenefits |
|---|---|---|
| Option 1: Enter into legal agreement to enable private investment co-funding | Represents a five-fold increase in future Towns Fund Digital Connectivity funding and extends the project to March 2026 | 'Co creation' of digital products and services means Council does not have full control over delivery |
| | Towns Fund job creation outcomes are met | |
| | Enables Smart Place team to meet full cost recovery targets for 2025/2026 | |
| | A financially sustainable free Public Wi-Fi solution | |
| | A catalyst for further investment that builds a sustainable legacy for the Towns Fund programme, continuation of individual projects and digital infrastructure | |
| | Opportunity to create a model that can be used as a blueprint for further investment across BCP | |
| Option 2: Do not enter into legal agreement to enable the Towns Fund private investment co-funding | Full control over project delivery | DLUHC programme outcomes in job creation may not be met which could lead to reputational issues from poor project delivery |
| | Removes risks set out in the summary risk assessment of this report | Reduced community benefit. 6 projects delivered from a budget of £500K instead of 15 projects for £2.5m |
| | | Lost opportunity to bring in follow-on wider investment and to meet government targets on legacy programmes 'Smart Place Pilot' and 'Investment Plan' |
| | | Digital Connectivity Project ends March 2025. Wi-Fi is removed, community websites and applications discontinued |
| | | Smart Place team cannot meet full cost recovery targets for March 2025 and redundancy costs incurred |
| | | No opportunity to create a blueprint model to lever in further investment to Towns Fund/ BCP area |

The preferred option is Option 1: To enter into the Legal Agreement and enable the private investment co-funding into the Towns Fund Programme.

Reasons for the decision:

- Ensures project outcomes are met, including job creation.
- Ensures wider Towns Fund inward investment outcomes are met and acts as a catalyst for further future major investment,
- Represents a five-fold increase in Digital Connectivity funding and extends the project to March 2026.
- Enables Smart Place team to meet full cost recovery targets for 2025/2026.
- Enables free Public Wi-Fi to be extended and to be sustainable.
- (vi) Strong alignment with Council Corporate Priorities.

Following the calling of the general election and the decision taken on the 28 May to cancel the Cabinet meeting scheduled for the 19 June 2024 in line with published guidance relating to the pre election period it was requested that an officer decision be taken in relation to this item in lieu of the cabinet meeting on the 19 June 2024.

Officers indicated that this decision could not wait until the next scheduled meeting of the cabinet on the 17 July 2024 for the following reasons:-

- Enables delegation to officers to move quickly to finalise the legal agreement
- Pace provides reassurance to the investor and gives confidence, ensuring that £2.5m funding is secured and not withdrawn
- Essential for programme delivery commitments to the Towns Fund Board and Department of Levelling Up, Housing and Communities
- Cabinet Report fully supported by Portfolio Holder and Deputy Leader, Cllr Earl

Background:

A key aim of the Towns Fund Programme (Department of Levelling Up, Housing & Communities - DLUHC) is to seek to attract co-funding from private investment to enhance success of projects.

Through an open procurement process, an Expression of Interest for £2.5m in private investment from FinNest Group Ltd has been received for the Towns Fund Digital Connectivity project. The £2.5m private investment will be used on key digital projects to be delivered collaboratively between the investor and the Council with funding administered from the investor's own bank account. £590k of DLUHC funding remains within the Digital Connectivity budget for 2024-26 to enable the Council to support project delivery.

A thorough due diligence exercise has been completed and a legal agreement is being prepared covering the Council's oversight of the projects and funding, and to mitigate against risks to the Council.

This represents a positive example of how public sector investment can be used to attract private investment to enhance regeneration and community outcomes. This report therefore recommends acceptance of the use of the £2.5m private investment to support the Digital Connectivity project, subject to completion of the legal agreement and proof of funds. Thereafter, all Council meetings will continue as previously published.

Consultations undertaken:

Consultation:

- In making this decision the Chief Executive and Head of Paid Service has consulted with Council's Monitoring Officer and s151 Officer
- The Leader of the Council has been consulted

Finance and Resourcing Implications:

- BCP currently has approximately £590k remaining from the DLUHC Towns Fund grant (as of 16/05/24) allocated to the Boscombe Digital Connectivity project (CAP00263 plus CAP00268).
- In this proposed arrangement the Council's commitment is significantly supported by the third party, as FinNest Group Ltd will be committing up to £2.5m of co-funding.
- The Council's £590k shall remain under the Council's control and similarly the £2.5m shall remain with, and be the responsibility of, FinNest Group Ltd. Consequently, expenditure funded by FinNest Group Ltd will not impact upon the Council's Towns Fund budget, nor will it form part of the Council's accounts and nor shall the Council be required to underwrite any commitments relating to the £2.5m. This reduces the financial risk of project to the Council.
- The Council will not be committing to costs that are due to be contributed to by FinNest Group Ltd
- FinNest Group Ltd are likely to require and therefore procure advice from BCP Council.
- A potential financial risk is if the co-funding is not forthcoming from the investor either in entirety or in part. This could require the Council to reconsider its use of the £590k Towns Fund budget to ensure that it continues to meet its Towns Fund objectives and additionally may create a pressure in services where associated income from FinNest Group Ltd was forecast.
- To mitigate risks and any minor financial consequences to the Council, the Council has asked that the investor demonstrates proof or funds in advance of entering into the legal agreement. The legal agreement will also include a mechanism for the Council to recover consequential costs should the private investment cease to come forward.
- The amount of money recharged to FinNest from BCP Council should be less than £0.5m.

Name: Adam Richens

Date: 24 June 2024

Signature (of Chief Finance Officer):



Legal Implications:

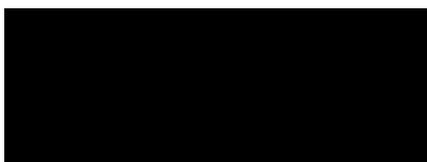
- A legal agreement will set out the oversight arrangements between BCP Council and the FinNest Group Ltd in respect of the co-funding as well as defining the roles and responsibilities of both parties for each individual project.

- The agreement is also required to set out the basis on which the Towns Fund project objectives are being met by the use of these monies.
- The Council is empowered to recharge the company (on a cost recovery basis) for resources expended in support of their delivery of the projects as the service being provided is discretionary.

Sign-off by Monitoring Officer

Name: Janie Berry

Date: 24 June 2024



Signature (of Monitoring Officer):

Risk Assessment:

| Risk Description | Risk Mitigation |
|---|--|
| <p><u>Reputational:</u> The £2.5m private investment funding does not fully materialise for Towns Fund projects leading to reduced project outcomes reported to DLUHC.</p> | <p>The due diligence exercise has mitigated this risk. Any residual risk will be managed through clauses and redress within the proposed Legal Agreement.</p> |
| <p><u>Financial:</u> Some Smart Place staff costs will need to be met by re-charging to the investor. Risk in failure to be able to re-charge</p> | <p>Managed through clauses and redress within the proposed Collaboration Agreement and access to / visibility of dedicated bank account for the project.</p> |
| <p><u>Reputational:</u> A key benefit for the Council and the investor is the potential for positive publicity to be generated from the investment into digital projects. Conversely, if things go wrong or other reputational issues arise this could have a negative impact upon the reputation of the Council.</p> | <p>The due diligence exercise has supported the management of this risk, and any residual risk will be managed through communications guidance as well as clauses and redress within the proposed Legal Agreement.</p> |
| <p><u>Legal:</u> As the funding and the projects are in effect delivered by the investor, with the support of the Council, the investor will be liable for the majority of any associated legal risk including insurances.</p> | <p>Any residual legal risk will be managed through clauses and redress within the proposed Legal Agreement.</p> |
| <p><u>Security:</u> Various security risks could arise as part of the project particularly around data and data sharing.</p> | <p>The due diligence exercise has supported the management of this security risk and any residual risk will be managed through data sharing agreements, continuous monitoring against the NCSC's Connected Place Cyber Security Principles and GDPR as well as</p> |

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| | clauses and redress within the proposed Legal Agreement. |
| <u>Project Delivery:</u> This collaboration and 'co-creation' of digital solutions between the public and private sector is relatively new to BCP Council. | Project governance, dispute resolution, monitoring and reporting is set out within the proposed Legal Agreement, along with Termination and Exit clauses. |

Impact Assessments:

An EIA was developed for the Digital Connectivity programme at the start of the project. The EIA action plan committed to mitigating these areas as below. Ultimately, the increased investment and budget to deliver the projects set out in the Towns Fund Digital Connectivity business case will increase positive impacts and benefits.

The impact of the project has been assessed in relation to Age, Disability, Sex, Gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sexual orientation, as well as on low-income households. Of most relevance is the impact on low-income households. There are numerous positive outcomes anticipated, which includes increased access to skills, jobs and services, better access to information, better access to services and access to more affordable digital connectivity through the free wi-fi in the centre of Boscombe and a more welcoming and safer local environment for all groups. Older and Younger people and those with disabilities will also benefit from:

- Access to assistive technology to help people live independently in their homes for longer.
- Better access to information relating to services for older people.
- Access to better information on services and applications available for people with disabilities.
- Increased availability of assistive technology to help people living with disabilities.
- More welcoming and safer local environment for people with disabilities.

The only negative impacts are:

1. is on accessibility and noise whilst construction works are taking place. This will be mitigated against by including clauses in the construction contract to minimise any disruption to access and noise and these will be implemented during the construction phase in advance of construction commencing.
2. Lack of accessibility to new and enhanced digital services due to a lack of appropriate digital devices (laptops, smart phones and computers) in lower income households. We intend to develop a subproject to collect and re-distribute second hand hardware.

Information for publication / not for publication

- It is in the public's interest for this decision to be published.

Background Papers

Towns Fund Cabinet Report

[Decisions 24th-Jun-2020 10.00 Cabinet.pdf \(bcpcouncil.gov.uk\)](https://bcpcouncil.gov.uk/decisions/24-Jun-2020-10.00-Cabinet.pdf)

Towns Fund Guidance

[Towns fund guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/towns-fund-guidance)

Any declaration of interest by the Officer responsible for the decision

Nature of Interest

No

Note: No Officer having an personal financial interest in any matter should take a decision on that matter. Other interests of a non-disqualifying matter should be recorded here.

Any conflict of interest declared by a Cabinet Member who is consulted by the Officer taking the decision

Name of Cabinet Member

Nature of interest

Details of any dispensation granted by the Monitoring Officer

No

Decision taken by: (print name and designation)**Graham Farrant – Chief Executive****Signature:****Date of Decision: 24 June 2024****Date Decision Effective: 24 June 2024****Date of Publication of record of Major Operational decision: As shown on web site****Note: A record of this decision should be kept by the Service Area within which the decision falls.**