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Report to: Overview and Scrutiny Committee

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Subject: Loan to Oxford GB2 (Leeds Hilton)

1 Purpose

- 1.1 To report on the findings of the Working Group on the loan to Oxford GB2 and to propose recommendations to the Combined Authority for improvements to processes and systems.

2 Information

Context

- 2.1 At its meeting of 20 September Members agreed to set up a task and finish working group to look into the decision of the Leeds City Region Local Enterprise Partnership (LCR LEP) to award a loan of £4.8m to Oxford GB2 in 2013 to enable the construction of a hotel near the Leeds Arena. In 2015 the company went into administration and work on the site ceased. The loan was made from the Growing Places Fund which is designed to support investment in 'difficult,' higher risk projects. There have been some notable successes within this portfolio of projects, however this particular project has attracted media attention given its size.
- 2.2 The task and finish working group has now completed its review of this project. The working group, led by the Chair, included Cllrs Baker, Davey, Cuthbertson and Harrand. It has met with officers and politicians involved in the original decision, reviewed relevant reports and paperwork and considered processes and systems in both 2013 and in 2017/8. The focus has been to understand the circumstances and factors relevant to the award of the loan and assess lessons learnt and how these can best be applied to the current decision making processes of the LEP and WYCA.
- 2.3 **Appendix 1** sets out a timeline of the events relating to the loan, which was made from the Growing Places Fund. This was funding awarded to the LCR LEP by government and for which, at the time, Leeds City Council (LCC) was the accountable body (WYCA took over this role in April 2015). LCC had been in discussions over a hotel project since 2007 and sold the land at Portland Crescent to Oxford GB2 in 2011. Oxford GB2 applied for a LEP loan of £4.8m in 2011 and this was awarded in 2013 to facilitate the construction of a hotel with a Hilton franchise near the Leeds Arena. The project was due to deliver both jobs and growth in Gross Value Added (GVA), thus meeting LEP objectives and the loan would be repaid over the next five

years. The LEP's position was that of junior lender and as such it provided £4.8m of funding which was spent ahead of the £19m due to be provided by the Co-op Bank.

- 2.4 The construction company (a separate company within the GB Group) went into administration in March 2015, at which point the foundations and some initial construction above ground had taken place. In February 2016 Oxford GB2 also went into administration. The administrators subsequently sold the site in September 2017. Although the £4.8m loan has not and will not be recovered, efforts by WYCA and LCC have enabled the existing site and infrastructure to be sold on and developed in a way that will realise some intended economic benefits for the City Region.
- 2.5 In considering the recommendations proposed below Members may wish to note the differences in operating environments between 2013 and 2017. By way of background LEPs were set up in 2011 by the Department for Business, Innovation and Skills. They were voluntary partnerships between local authorities and businesses that would help determine local economic priorities and lead economic growth in the local area. In 2013 when this loan was made LEPs were still new structures and were focussed on bringing together the private and public sectors to address market failure in a rapid and agile way following the 2007 recession. Funding was made available by government to encourage investment in difficult to progress projects in an effort to prompt the private sector to follow suit. There was clear Government pressure to make a difference and spend the available funding to help drive growth. At the time LEPs were set up there were, unlike for local government, no governance requirements set out and it was left to each area to determine and develop its own internal processes under the guidance of an accountable body.
- 2.6 Given the lack of structure and governance provided in the setting up of LEPs it was a requirement that a body with appropriate governance and statutory arrangements stood as accountable body to which Government would make payments. This is usually a local authority. By 2014 Government required each accountable body to provide assurance regarding adherence to the published guidance on Growth Deal funding. In 2013 the LEP was located with Leeds City Council who were the accountable body for its funding. From 1 April 2015 WYCA has taken on this responsibility. Over this time period WYCA has developed and implemented its assurance framework, in accordance with guidance, to ensure a robust and consistent evaluation of projects and clear governance around decision making. The framework also enables risks to be clearly articulated and understood so that any decisions taken are in full knowledge of such risks. This is a key point to note – it is recognised that a project may fail but this is acceptable if a clear and thorough decision making process, mindful of all the relevant issues and risks, has been adhered to.
- 2.7 With regard to this loan LCC was the responsible authority when the loan was made. WYCA's involvement is only subsequent to April 2015 when it took over as accountable body and hence was only involved in the discussions that led to the

eventual sale of the site in 2016. The LEP was represented at these meetings alongside LCC.

2.8 **Summary of key findings**

- The issues relating to this failed loan are prior to the existence of the WYCA
- Roles and responsibilities should be clearly identified
- Weak processes in place for LEP loans at the time led to poor judgement by decision makers
- Independent assessment of all applications for grants or loans should be made using outside specialists where required.
- WYCA has introduced significant measures to improve process, governance and decision making since it was set up in 2015, not least the Assurance Framework, These improved arrangements are supported by all the members of the Working Group.

Analysis

2.9 The Working Group has identified a number of areas for improvement. These are set out below, grouped by thematic area, alongside a statement of how far the current processes and systems already address these.

Clarity of roles and decision makers.

- 2.10 Leeds City Council was the landowner until 2011 when it sold the site to Oxford GB2. It was also acting as lead authority on behalf of the Leeds City Region from 2011 to 2015.
- 2.11 LCC had legitimate roles and interests in the Hilton deal, being lead authority for the funding (accountable for the funding) and also part of the decision making machinery ie the LEP Board, and the Leeds City Region Leaders Board which was attended by all local authority Leaders, including the Leader of Leeds City Council (who also chaired the LEP Investment Panel).
- 2.12 At the time of the OGB2 loan the LEP was supported by the Leeds City Region Secretariat which was hosted by LCC. It is unclear to the Working Group where specific responsibilities sat with regard to governance and roles and responsibilities although as lead authority it would be reasonable to expect LCC to put appropriate arrangements in place.
- 2.13 LCC officers confirm that they believe appropriate structures were in place to manage the decision making. The Working Group believes a more explicit statement clarifying relative roles and responsibilities between different decision making bodies would assist in demonstrating and achieving good governance.
- 2.14 **Current position:** All voting members of WYCA and LEP boards, committees and panels are required to complete a register of interests which is published on the

WYCA website. All meeting agendas include an item to declare any interests. Where a prejudicial conflict exists then members withdraw from the decision.

- 2.15 The decision making process for awarding Business Grants includes a provision for the Chair of Overview and Scrutiny to consider any grant where a potential conflict has been identified.
- 2.16 All papers provided to Boards and Committees identify the author and a director who has oversight of that paper. Directors will assist in identifying any issues such as conflicts of interest that may arise.
- 2.17 **Further comments/recommendations:** Arrangements as set out above for identifying and recording interests and responsibilities, both more generally and specifically at each meeting are supported by the Working Group.

LEP role in supporting a project

- 2.18 The LEP was the junior lender in the arrangement with OGB2. This reduced the influence the LEP/LCC had on the project both during delivery and during the discussions after the construction company went into administration. The LEP's funding was paid out ahead of the senior lender's and thus when the project failed all of its money was lost.
- 2.19 It is not clear why the LEP's funding was paid out before the senior lenders or if any advantage was gained for the LEP by releasing funds in this way.
- 2.20 It is not clear if the consequences of being junior lender were fully set out in the formal papers considered by the decision making panel and why this position was accepted.
- 2.21 **Current position:** Loans are no longer made where WYCA/LEP is the junior lender.
- 2.22 **Further comments/recommendations:** This position is supported by the Working Group.

Consistency of officer support to a project.

- 2.23 It is unclear who provided ongoing independent support to the project as it progressed through the approvals and monitoring processes.
- 2.24 There does not appear to be clear director level oversight of the grant application at any point in the process.
- 2.25 There was no single case officer.
- 2.26 **Current position:** A case officer from the Delivery directorate is assigned to a scheme and will assist in guiding the project through the assurance process, ensuring

appropriate support is available and independent scrutiny of the business case. The promoter and appraisal roles are entirely separate.

- 2.27 **Further comments/recommendations:** The Working Group support this position, noting that the case officer remains independent of the promoter throughout the process.

Governance and decision making: information

- 2.28 Some of the advice provided to the decision makers in the project was provided 'in house,' and some was commissioned from a third party. A key report submitted as part of the appraisal of the full business case was provided by OGB2 but relied on by the decision makers as though it was specified by them. In the Working Group's view this was wrong and the decision makers should have insisted on clear independent advice.
- 2.29 **Current position:** The case officer will recommend where independent and expert financial and legal advice is required. Framework arrangements are in place to enable the decision makers to promptly and properly procure appropriate advisors.
- 2.30 The assurance framework provides a consistent and robust process for all schemes with a requirement for completion of standardised forms covering the key points at the different stages of approval. At decision point 4 for example where a full business case is required this is required to include the strategic, economic, financial, management and commercial case for the project, using a standard proforma. A detailed assessment is provided using the red/amber/green rating, risks are considered, the outcome of any peer review, proposed tolerances, key milestones. The case officer puts forward the requirements for due diligence and how this has been met and the outcome of it.
- 2.31 **Further comments/recommendations:** The Working Group support this approach and note that the use of third party advisors brings both specialist technical advice into the decision making and also allows legal action to be brought if the advice proves to be incorrect.
- 2.32 The standardised and thorough approach is supported by the Working Group. It has highlighted the need for fully detailed papers to be presented at each stage of decision making such that there is a clear audit trail at a later date of the decision made. All papers, both public and confidential, are published and stored on the WYCA website in accordance with statutory requirements and retention policies and public papers remain accessible to the public. It is important that the case officer also retains information relating to any informal discussions and keeps these as part of the records of the project.

Governance and decision making: Recording of decisions

- 2.33 A further issue identified is that due to apparent time constraints it was felt at the time that a final decision on this scheme was urgently needed and would therefore be confirmed by email by members of the LEP Board. The then Chair of the LEP Board (Neil McLean) recorded by email that whilst he disagreed he would support the majority view to proceed with the project.
- 2.34 **Current position:** Decisions by WYCA are taken at a meeting held in public or through appropriate delegations to officers. On occasions WYCA may authorise a delegated decision to be taken in consultation with the Chair or relevant members eg. where this is necessary between meetings. Working practice is that all decisions are made in a meeting with a clear decision recorded. If a vote is taken in order to reach that decision then that vote is also recorded in the minutes.
- 2.35 **Further comments/recommendations:** The Working Group is clear that any spending decisions should be made in a formal meeting and a categoric decision for or against recorded.

Governance and decision making: monitoring and reporting

- 2.36 It is unclear how progress on the Hilton project was reported on and how and when the decision to invest, or indeed ongoing consideration of whether to continue with the scheme, could have been formally considered.
- 2.37 **Current position:** All spending decisions on capital projects are progressed through the Investment Committee and WYCA/Transport Committee. Decisions taken by WYCA and the Transport Committee are published within 2 working days of the meeting and shared with the Overview and Scrutiny Committee which then has the opportunity to call in any decisions within 5 clear working days.
- 2.38 Regular reporting to the Investment Committee highlights progress with schemes and sets out those with a 'red' risk rating ie that have a delay or problem in delivery such that the Committee can choose a course of action. Tolerances are set for projects that then trigger exception reports to consider any corrective action that may be required
- 2.39 **Further comments/recommendations:** The Working Group support the call in arrangements in place.
- 2.40 The Working Group supports the ongoing monitoring of projects through the Investment Committee.
- 2.41 Other actions taken over recent years that strengthen project and decision making arrangements include limiting the size of any loan to £1m and focussing loans on manufacturing and housing projects and thus building up expertise in these areas.

3 Financial Implications

3.1 None arising directly from this report.

4 Legal Implications

4.1 None arising directly from this report.

5 Staffing Implications

5.1 None arising directly from this report.

6 External Consultees

6.1 None.

7 Recommendations

7.1 That the Committee agree the recommendations of the task and finish working group and provide this information to the next meeting of WYCA for consideration.

8 Background Documents

8.1 None.