

REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

HOUSING INFRASTRUCTURE FUND AND PROJECT UPDATE

Cabinet Member Cllr Richard Chesterton
Responsible Officer Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

Reason for Report: To update Cabinet on the infrastructure projects under the Housing Infrastructure Fund (HIF) totalling £18.2 million, in relation to which the Council has entered grant funding agreements with Homes England and has submitted the initial claims to draw down the first tranches of funding. The report also considers emerging financial considerations and seeks instruction from Cabinet at this stage in the project, whilst identifying that there will be future key decision points for both projects.

RECOMMENDATION: That Cabinet consider the contents of this report and instruct Officers to:

1. Tiverton HIF project-

- i) Continue to work with Devon County Council to deliver the project;**
- ii) Bring a report back to Cabinet once the tendering process is complete in order to seek a formal decision (with Devon County Council) over whether the delivery contract be entered into.**

2. Cullompton HIF project –

- i) Continue to work with Devon County Council to deliver the project;**
- ii) In the event that the Levelling Up Fund bid is not successful, to seek further instruction from Cabinet by bringing another report considering the financial implications and options available.**

Financial Implications: The Housing Infrastructure Fund will play a pivotal role in bringing forward the corporate aspirations to facilitate growth within the district which in turn will help boost the economy. The £18.2m for the two HIF schemes has been secured as recoverable grant to forward fund infrastructure in Mid Devon.

At the outset of the bid process it was envisaged that no additional contributions from the District Council would be required over and above those already reflected in existing budgets. However as the discussions with Homes England progressed and the formal offer letters for the schemes were received, it became clear that an element of forward funding (cash flow) from this Council would be needed to provide funding for the projects. This was for two reasons:

- 1. The grant funding agreements with Homes England for each project specifies that the HIF funds will be drawn down in accordance with a programme of payments that has been agreed with Homes England. Whilst these payment claims are programmed by quarter and can be in advance of spend, it was

considered still possible that the Council will be required to bear project costs in the short term until the quarterly HIF draw down payment is claimed and made. Early drawdowns of HIF funding have now been made for both projects. Claims are now being submitted retrospectively. The County Council (delivery partner) is bearing the costs incurred for work they are undertaking or commissioning until the HIF drawdown claims are processed and funds received. This Council is bearing its own costs until HIF funds are claimed. These costs are primarily staff time. The financial implication at this time of this type of 'forward funding' is therefore significantly less than initially identified.

2. Funds are being made available through the HIF programme on the basis of a recoverable grant. Through the terms of the grant funding agreements entered into between the Council and Homes England, the Council is required to secure the recovery of the HIF funding from housing developers. It is envisaged that this will be via future S106 agreements to be entered into as part of the planning process. This is to ensure that public funds are not subsidising developer profit. There will therefore be a time lag between when monies needed to be expended in order to deliver the infrastructure and the recovery of funding from developers via S106 agreement. For the Cullompton relief road project in particular, the overall project was initially expected to cost at least £15m, with £10m forward funding being provided through HIF and the £5m balance to be forward funded by the Council until such time as S106 monies are collected from housing development. This position has now been updated, both in terms of project cost and the proposed funding package for the Cullompton scheme. An application has been made to the Levelling Up Fund (LUF), the outcome of which is not expected until the autumn. In the event of success, LUF funds would provide the balance of the majority of project costs once those from HIF and £1 million from Devon County Council have been accounted for. With a successful LUF outcome, the initially proposed £5m forward funding from this Council pending recovery from developer S106 funds would not be required. However at this time funds remain allocated to the project within the Capital Programme.

Since initial reports on the projects were written, the projected cost of the schemes has increased. The Tiverton scheme is currently estimated at a potential £10.1m rather than £8.2m and the Cullompton scheme is estimated at £24.4m rather than £15.0m. There is also further cost pressure as a result of the increasing cost of construction materials, particularly steel. The funding gap for the Cullompton scheme is considered below, as is the potential funding gap for the Tiverton project.

£88,000 capacity funding for each of the two projects has recently been awarded by Homes England for spend in 21/22. The successful bid was based on this additional capacity being used for proactive work to deliver the homes that will be unlocked through these HIF schemes.

Budget and Policy Framework: None directly in terms of the Council's policy framework. The agreed 2021/22 capital programme includes the two HIF schemes within the general fund projects and the projects are also built into the medium term financial plan capital programme. The assumptions over forward funding and payback are being kept under review.

Legal Implications: Grant funding agreements have been entered into between the Council and Homes England. The Council is the accountable body for the projects, although they are being delivered by Devon County Council. The contents and terms of the grant funding agreements were considered by the Head of Legal (Monitoring Officer) following protracted negotiation with Homes England. At the meeting of Cabinet on 30th May 2019 it was resolved as follows:

1. To enter into grant funding agreements with Homes England to secure £18.2 million Housing Infrastructure Fund monies and grant delegated authority to the Section 151 Officer in consultation with the Group Manager for Legal Services to finalise and sign the agreements;
2. To forward fund the Cullompton town centre relief road and Tiverton Eastern Urban Extension phase 2 junction projects as set out in paragraphs 5.1 and 5.4 including taking out any associated borrowing.

The grant fund agreements were subsequently signed in accordance with the resolution on 29th November 2019 (Tiverton) and 4th December 2019 (Cullompton). A deed of variation to the Tiverton agreement was signed on 21st June 2021 and updated key dates and funding availability period in line with the latest project programme. A similar deed of variation for the Cullompton scheme is also now required.

Devon County Council is acting as this Council's delivery partner. Given that the two HIF projects involve highway infrastructure, it is appropriate that the County Council as Highway Authority takes on the responsibility for their project management, procurement, contracting and delivery. A formal agreement has been signed between the two Councils to this effect for the Cullompton scheme and has also been drafted for the Tiverton scheme. These agreements ensure compliance with the requirements of the HIF funding agreements and provide both Councils with financial safeguards.

A further area of legal implication is pursuance of S106 legal agreements as part of the planning process in order to secure developer contributions towards the cost of the delivery of the infrastructure in question. It is through this means that the Council proposes to recover the HIF funds as required by the grant funding agreements. Entering into S106 agreements in this way is a standard requirement and would have been sought irrespective of whether this HIF funding was forthcoming or not.

Legal implications will also arise as a result of the need to assemble and acquire land to deliver the Cullompton relief road scheme and also in respect of the legal interests of existing sports providers likely to be affected and any loss or substitution of public open space. A range of land ownerships and interests will need to be addressed and are the subject of negotiation as the project progresses. For the Tiverton A361 junction project, legal provisions for licenses and title transfer between the landowner and Devon County Council are already set out within a signed S106 agreement. As the Council's delivery partner, it will be Devon County Council to negotiate to ensure the land needed to deliver the projects is assembled and secured; run the procurement process; award the contract for the construction of the infrastructure and undertake the day to day project management to deliver the infrastructure in question.

The adoption and implementation of an Air Quality Action Plan (where an authority has designated one or more Air Quality Management Areas) is a statutory requirement under Part IV of the Environment Act 1995 for Local Air Quality Management (known as the LAQM regime). Under the regime, Local Authorities have a duty to pursue measures which are designed to improve air quality. The Council's Air Quality Action Plan includes the delivery of a Cullompton town centre relief road as an air quality mitigation measure, specifically due to the opportunity it provides to reduce traffic in the High Street, as well as improving air quality in the vicinity. The Council's successful bid for the Heritage Action Zone (HAZ) project in Cullompton town centre was also predicated upon the relief road scheme and has secured funding from Historic England.

Planning permission has been granted for both the Cullompton relief road scheme and the relocation of Cullompton Cricket Club onto a new site. The latter will be required in connection with the road scheme due to the line of the road.

Risk Assessment: The consequences to the authority of not securing an adequate funding package for the infrastructure in question would be serious as it would compromise the ability to deliver much needed housing and affect housing land supply. At examination the Local Plan Review Inspector wished to be assured that the Plan was sound and provided deliverable housing sites in the early years of the Plan together with a supply of developable sites later in the Plan with a reasonable prospect of being developed at the point envisaged. The funding agreements with Homes England were therefore entered into against this wider background with HIF funding being made available by the Treasury via Homes England specifically to unlock planned housing growth through the provision of key pieces of infrastructure. Should either project not be delivered, there will be Local Plan delivery and housing supply implications.

In the case of Cullompton, the relief road is also of significance to improving air quality, the delivery of the HAZ project, environmental enhancement of the town centre and the unlocking of planned housing, including to the east of Cullompton. The latter is expected to form the first phase of the larger Garden Village. The delivery of the project is also considered vital to the heritage led regeneration of the town centre, to the attractiveness of the town for investment and significant to its future economic prosperity. Discussions with Historic England within the context of the HAZ scheme, have reinforced the importance of the scheme to these wider dependencies.

To qualify for HIF funding, the proposed infrastructure has needed to meet the HIF scheme criteria and deliverables, as tested through a prolonged due diligence assessment process. The projects continue to be the subject of an ongoing assurance process via quarterly monitoring returns and close liaison with the Homes England Infrastructure Grant Manager assigned to the projects. The intention of this monitoring being to have ongoing project engagement and management, to anticipate and respond accordingly to address any concerns and reduce risk of project non delivery or grant fund clawback. These quarterly monitoring returns also include examination of project level risk assessments.

The HIF funding requires adherence to tight and challenging timescales. Should the LUF grant bid be successful, it is anticipated that the requirements of this fund will also be challenging. The need to meet agreed project milestones and the fund

availability cut off dates remain a significant risk. The grant agreements contain milestone date targets for key stages of each project. A deed of variation has been entered into for the Tiverton scheme and revises the infrastructure completion milestone to 14th July 2023. At time of writing, the now expected completion date for the Cullompton project of 27th March 2024 will also require a deed of variation to the grant fund agreement to revise the funding availability period and completion milestone. Maintaining progress on the projects and ultimately securing their delivery within the requirements continue to be challenging. Close liaison has taken place with Devon County Council with the aim of ensuring that the programme and hence milestones for both schemes whilst ambitious (to reflect the urgency of Homes England), is nevertheless achievable. The grant agreement contains fund clawback provisions. Officers from both Councils will continue to work to de-risk the projects, liaise with Homes England and seek their delivery in accordance with the grant agreements.

The risks associated with the Tiverton A361 junction project is considered less than with Cullompton as planning permission has already been granted and a signed S106 is in place between the landowner and County Council over licenses and land transfer.

There remain particular risks with the Cullompton relief road project. Although this project has advanced significantly with the grant of planning permission for both the road scheme itself and for the replacement site for Cullompton Cricket Club, a key stage of the project is yet to take place; namely land assembly. Further technical work is needed to support the detailed design and delivery phases post planning, the affected sports facilities need to be moved and replacement sports and recreation space provided. These activities together with the construction phase result in a very tight timescale to meet funding requirements. The LUF requires delivery by the end of March 2024.

The repayment of forward funding by the Council via developer S106 agreement payments is dependent upon housing schemes coming forward within the timescale anticipated. The Council's Local Plan sets out the policy framework for this. The housing trajectory within the Local Plan does not assume that any homes that the relief road will unlock will be delivered within the first five years of the plan. Risk to achieving the required housing delivery rate is therefore reduced. Other forms of risk reduction include proactive working to support activities such as masterplanning that will aid the delivery of the key housing sites in question. Officers will continue to work proactively to deliver these planned for sites, but this is ultimately not under the Council's control. Planning applications for some of these schemes have been received. This does not prejudice or predetermine the assessment and decision making process on these applications.

COVID-19 and the UK leaving the EU have resulted in impacts upon the economy, the construction industry and housing market. These present a further risk to achieving project milestones, the delivery of homes and therefore the recovery of HIF funding and the Council's forward funding via S106 within the initially expected timescales. The construction industry is currently experiencing material shortages and price increases which are expected to place pressure on project cost.

Equalities Assessment: There are none directly arising from this report. For Cullompton, the impacts have been assessed to date as part of the previous

substantive decisions – for example on the route of the relief road - and will also come into play when the planning application is made. It is acknowledged that there is an impact upon sport and recreation – therefore most likely to be an age-related impact for young people who are involved in the sports clubs which make use of the land over which it is expected the relief road will run – and also for those who prefer to walk on ground which is largely flat and which includes level pathways through it e.g. the elderly, those with young children and those with disabilities.

Impact on Climate Change: The two HIF schemes in question relate to highway infrastructure projects- a new road and a new highway junction. On the face of it, they may appear at odds with the Council's climate change declaration and the target of net-zero carbon emissions by 2050. However the Cullompton relief road will deliver wider improvements to air quality within the Cullompton Air Quality Management Area as well as resultant opportunities for improvements to the town centre environment by reducing town centre traffic. Idling cars in queues of traffic waste fuel, impact on air quality and contribute to climate change. The schemes and strategic scale development that they will unlock have / will be subject to environmental impact assessment which will seek to reduce or mitigate impact. Both schemes are important to the delivery of development within the Local Plan which provides for sustainable development up to 2033 and contains policies for the protection and enhancement of the natural as well as the built environment.

Relationship to Corporate Plan: These infrastructure projects are considered vital to enable development identified in the Local Plan to come forward and make a valuable contribution to delivering the priorities of the Corporate Plan 2020 to 2024; Economy, Homes, Community and Environment. In his examination of the Local Plan Review the Inspector was keen to understand the likelihood and timescale for the delivery of the Cullompton town centre relief road and clearly saw it as being crucial to unlocking development planned for in the Cullompton area.

1.0 Background: Housing Infrastructure Fund.

- 1.1 In July 2017 the Government launched its £2.3 billion Housing Infrastructure Fund to finance infrastructure to unlock housing delivery. This Council made two bids for HIF funding with proposals relating to highway infrastructure schemes which will unlock development sites allocated within the Local Plan. The Council's HIF bids were considered and agreed at the meetings of Cabinet on 31st August 2017 and 23rd May 2018 with authority granted to make the bids and prioritise that relating to Cullompton.
- 1.2 The funding was offered on the basis of a locally recoverable grant. There is a requirement to recover the HIF funds from development. This Council will retain those funds locally (rather than return them to Homes England) and will need to recycle them into projects or schemes that achieve further accelerated housing delivery. At the meeting of 30th May 2019 Cabinet agreed to enter into the grant fund agreements and granted delegated authority for their finalisation and signing.
- 1.3 A summary of matters common to both schemes and HIF grant fund agreements was included in the report considered at the 20th July 2020 meeting of Scrutiny Committee and accordingly is not repeated within this report.

2.0 Tiverton HIF project: Northern element of A361 junction east of Tiverton

- 2.1 Construction of the first of two phases of the new junction off the A361 to serve the Tiverton Eastern Urban Extension has been completed on site. This first phase provides southern-side slip roads. The second phase of the junction is required to deliver Area B of the urban extension. The phase two junction works are for the bridge across the A361, the north side slips and associated landscaping. Planning permission has been granted for the full junction. HIF funding of £8.2m will deliver the northern phase of the junction.
- 2.2 The Tiverton Eastern Urban Extension is a strategic scale development allocation within the Local Plan, the build out of which is significant to the delivery of this Plan. In the absence of the second phase of the junction, the homes in Area B will not come forward.
- 2.3 Acquisition of land has already been dealt with in the existing s106 agreement entered into with the land owner. The s106 agreement provides a mechanism to secure a licence to the land to carry out the works and, following their completion, the transfer of the land to Devon County Council.
- 2.4 The programme for this project was revised and renegotiated with Homes England earlier this year. Works are now due to start in September 2022, with completion in July 2023. A significant factor in the need to revise the project programme was uncertainty over the timescale for the delivery of the section of linking road between the new junction and Blundell's Road. This road will act as the divert route for the A361 during construction works as the bridging structure is craned in. The County Council wished to have more certainty over the timing of these works before going out to tender. The linking road works are being developer delivered and have now started on site. Completion is due in early January 2022. A further factor in the revised programme has been the need to avoid the summer embargo on works affecting the A361. In order to ensure a continual build avoiding this embargo period, the start of the works has been delayed to September 2022. Both factors contributed to the need to revise the HIF project programme, revise project milestones, extend the funding availability period and vary the HIF grant fund agreement. This was concluded in June 2021.
- 2.5 £8.2m of HIF funding has been secured to deliver the project. Devon County Council has now identified the project cost to be £10.1m. This £10.1m figure is also subject to further cost pressure as a result of lack of construction material availability and increasing cost, especially steel (which will be needed for the bridging structure). The difference between these cost estimates is the allowance for risk. The County Council is due to go out to tender shortly. Once the tenders have been returned there will more certainty over the cost of the project and the degree of any funding gap. Options can then be considered further in terms of whether the contract is to be awarded or not. Further instructions can be sought from Cabinet at that stage. A resolution to continue to work with the County Council to deliver the project at this stage will allow the DCC to go out to tender without prejudicing future decision points.

- 2.6 This Council is yet to enter into a formal agreement with the County Council over the delivery of this project. An agreement has been drafted along similar lines to that entered into for the Cullompton scheme. As drafted, a decision by this Council is required before the County Council lets the construction contract. The respective responsibilities for complying with the HIF grant fund agreement and drawdowns are set out, as are financial safeguards for each authority.
- 2.7 Drawdowns of HIF money to support this project have taken place and to date total £139,072.66. The next claim is due in September 2021.
- 2.8 Build out of the Tiverton EUE housing (Area B) is profiled to take place up to 2033, indicating an approximately 8 year period within which S106 monies would be expected to recover HIF funds. No planning applications have yet been submitted for this housing.

3.0 Cullompton HIF project: Cullompton Town Centre Relief Road

- 3.1 At Cabinet on 23rd May 2018 it was agreed to proceed with the £10 million Cullompton HIF bid on the basis of delivering a town centre relief road to the east of Cullompton, which will improve capacity at the motorway junction together with achieving a reduction of traffic flows through the town centre resulting in air quality and town centre amenity benefits. The overall project cost was expected to be £15 million; £10 million of which would be through HIF with £5 million from s106 receipts that would require Council forward funding in the first instance (in effect a loan to the project).
- 3.2 Devon County Council and Highways England have raised concerns regarding the capacity of Junction 28 for the M5 and its ability to accommodate additional traffic movements arising from planned developments. Whilst a longer term solution is planned comprising a strategic motorway junction improvement, the delivery of a town centre relief road for Cullompton will more quickly increase capacity at the motorway junction as a first phase of wider improvements. The relief road will facilitate more immediate development proposals to come forward comprising 2,000 homes planned for within the adopted Local Plan including a first release of approximately 500 dwellings east of Cullompton which will form part of the Garden Village.
- 3.3 The delivery of the town centre relief road has also been a long held aspiration to reduce traffic flows through the town centre. Cullompton town centre is a designated Air Quality Management Area. The Council's Air Quality Action Plan includes the delivery of a Cullompton town centre relief road as an air quality mitigation measure.
- 3.4 The relief road will reduce traffic through Cullompton town centre, resulting in environmental improvement. The town's Conservation Area is 'at risk' and the Cullompton HAZ scheme depends upon the delivery of the relief road to implement the full range of proposals. Historic England has clearly indicated the importance of addressing traffic levels in the town centre via the road. It is considered a pre-requisite to investment in the heritage and town centre

environment of Cullompton as well as wider economic recovery and prosperity. The Council is also currently consulting on a masterplan for the regeneration of the town centre.

- 3.5 Planning permission was granted in January 2021 for the both the relief road and a new site for Cullompton Cricket Club, the relocation of which is required by the scheme. Recent project activity has been focused on reviewing the programme, cost and funding package and working towards the relocation of the Cricket Club (including technical work to discharge the planning conditions and understanding the equivalent reinstatement requirements of this part of the project). Work has also been taking place to refine understanding of potential land purchase requirements and estimates to inform land assembly. Devon County Council is in discussion with landowners and will undertake the negotiation and acquisition process.
- 3.6 This project will require the provision of alternative open space and replacement sports facilities to off-set the impact of the line of the road. This is a planning requirement. The County Council has been working closely with landowners and sports providers over this aspect. Success in delivering the identified areas is critical to the project in order to avoid delay and missed milestones. In particular the timing of groundworks, replacement pitch provision and seeding for the Cricket Club are important as they must take place two years in advance of play and if delayed have the potential to impact the construction programme for the relief road.
- 3.7 As the project progresses through key stages, greater certainty will be gained over the cost of construction and land assembly in particular. Project cost estimates will be kept under review and updated. The most recent update indicates a total project cost of £24.6m resulting in a funding gap. The LUF bid submitted in June 2021 seeks gap funding and included a proposed funding package as follows:

Funding Sources	Total
UKG Funding Sought (Levelling Up Fund)	£13,599,430.82
Local Authority Contribution (DCC) in the event of LUF success	£1,000,000
Housing Infrastructure Fund- (recoverable from S106 development contributions)	£10,000,000
S106 developer funding (already spent)	£254,248.52
Total	£24,853,679*

*This includes the cost of pedestrian and cycle enhancement works on Station Road, Cullompton in addition to the relief road. Relief road element is £24.6m.

- 3.8 The outcome of the LUF bid process is not expected until autumn 2021 and will dictate next steps with the project- land assembly if successful, or if not successful there will be a need to consider alternative/additional funding sources. In that event a further resolution from Cabinet will be required taking into account an updated assessment of project risks, including financial risk to this Council. This will inform decisions over next steps at that point.

- 3.9 Taking into account the July drawdown of HIF funds, to date a total of £567,947.75 has been claimed out of the total £10m. This represents the current degree of financial exposure for the Council over the project in terms of recovery of HIF grant. However as land purchases take place to assemble the parcels required to deliver the project, overall project expenditure will significantly increase. There will be a need for surety over funding availability for the full cost of the project before this stage.
- 3.10 The LUF requires project delivery by the end of March 2024. This aligns with the most recent project programme. At time of writing discussions are taking place with Homes England over the project programme in relation to the grant fund agreement's milestones. An application has been made to update the programme, revise milestone dates and extend the HIF funding availability period. These will require a variation to the grant fund agreement. A similar process has already taken place over the Tiverton HIF project.
- 3.11 An agreement is in place between this Council and Devon County Council over the delivery of the project.
- 3.12 Housing to be unlocked from this scheme is from the allocated sites in Cullompton at North West Cullompton (CU1), East Cullompton (CU7) and Colebrook (CU21). Completions of the homes to be unlocked by the scheme are profiled to take place over a 12 year period with earliest completions from the first phase of North West Cullompton expected from 21/22. The S106s associated with the first 600 homes at North West Cullompton will secure developer contributions of £3m towards the relief road.

4.0 CONCLUSIONS

- 4.1 Work to deliver these projects of corporate significance continues in close liaison with Devon County Council as the delivery partner and with Homes England. The risk profile and degree of financial exposure for the Council is being kept under review and further reporting will be required to inform options at key decision stages. Timescales for both projects remain tight and hence challenging, as do the requirements of the grant fund agreements in meeting milestones. However efforts continue to be made to de-risk the projects through the early anticipation of problems and mitigating action. The pressure on project cost is significant. In terms of the Cullompton scheme, the LUF bid seeks to overcome this issue. Next steps and options for that project will depend upon the outcome of that key grant fund application.
- 4.2 Emphasis must also continue on the delivery of the homes that the infrastructure will unlock, this being both the purpose of the HIF funding but also important to the delivery of the Council's Local Plan, continuing to meet the Housing Delivery Test and in the recovery of the HIF funds via S106 agreements.
- 4.3 This report updates Cabinet on project progress, key issues and risks and seeks instruction to continue work with Devon County Council. It also identifies future decision points where further reporting and subsequent Cabinet instruction will be required.

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Background Papers	Cabinet November and December 2014; Council January 2015; Council 27 th April 2016; Cabinet 15 th September 2016; Council 22 nd September 2016; Cabinet 21 st November 2016 Council 1 st December 2016 Cabinet 31 st August 2017 Cabinet 23 rd May 2018 Cabinet 30 th August 2018 Cabinet 31 st January 2019 Cabinet 30 th May 2019 Scrutiny Committee 20 th July 2020 Cabinet 13 th May 2021 MHCLG https://www.gov.uk/government/publications/housing-infrastructure-fund
Circulation of the Report	Cabinet