

CABINET
12TH JULY 2022

TIVERTON HIF/A361 JUNCTION

Cabinet Member(s): Cllr Richard Chesterton, Cabinet Member for Planning and Economic Regeneration
Responsible Officer: Richard Marsh, Director of Place.

Reason for Report and Recommendations:

To inform members of the latest position regarding the Tiverton HIF/A361 junction scheme and to seek decisions regarding next steps.

RECOMMENDATIONS FOR CABINET:

- i) That the current tender process (being run by Devon County Council on behalf of MDDC) be stopped and that tenderers be notified that, owing to forecast construction costs exceeding the available budget, the Council will not be seeking to let a contract at this time.**
- ii) That Cabinet instructs officers to continue to investigate additional funding opportunities and scope for project value-engineering, working with key project partners including Devon County Council and Homes England and that a further report be brought back to Cabinet as soon as possible.**

Financial Implications:

In 2019, Mid Devon District Council entered into an Agreement with Homes England, formally securing £8.2m of Housing Infrastructure Fund (HIF) grant money to support delivery of a new junction to the A361. This junction further improving accessibility to Tiverton, but also supporting the delivery of the significant housing development known as Tiverton Eastern Urban Extension (EUE).

Since that time, work on the EUE scheme, junction and linking road has progressed. Devon County Council has also undertaken a competitive tendering exercise in relation to the second phase of junction works which would see the delivery of the second set of slip roads and overbridge of the junction scheme, along with further works. It was anticipated that the cost of these works may exceed the available budget owing to recent cost inflation and limited contractor capacity and, based on Devon County Council estimates, the August 2021 Cabinet report projected this possible shortfall as £1.9m. The paper also noted the potential for further cost increases owing to volatilities within the construction sector.

The County Council's tendering exercise has now identified a preferred bidder, however the total cost significantly exceeds the previous estimated shortfall of £1.9m. This is due to significant increases in construction sector costs and the need

for an increased contingency to reflect the current contractor marketplace and the volatile prices of steel, concrete and aggregate.

Since identifying this increased shortfall, officers have been working to consider ways in which this shortfall could be mitigated and have also sought to identify further funding to support delivery. However, it has not been possible to identify further grant funding at this time.

Further work is therefore required to consider options to support delivery of the scheme and further discussions are required with partners, including Homes England and DCC, around ways in which the project might be funded and delivered.

Budget and Policy Framework:

The scheme has been supported by £8.2 million of Homes England Housing Infrastructure Fund (HIF) grant funding as referred to above. There are currently no Mid Devon District capital funds budgeted for this project.

This infrastructure scheme is a strategic project, supported through policy and benefitting from planning permission. Delivery of the junction supports the delivery of the Tiverton EUE development site – a key scheme identified within the adopted Local Plan to deliver new homes and meet identified housing need.

Construction of the first of two phases of the new junction off of the A361 to serve the Tiverton EUE development has been completed, with the first phase providing west-bound slip roads. Since then, the developers of the first phases of the EUE development (Redrow) have been working to deliver the link road which will connect the new junction to Blundell's road. Completion of the linking road has been delayed, but is due to be completed by October 2022. It is therefore not expected that this will adversely impact the programme for the next phase of the HIF funded works, although this will need to be kept under review.

Consideration has been given as to the scope for the Council to seek to borrow (via PWLB) to address the funding shortfall and deliver the works to the original programme, however the scale of the funding gap means that the borrowing would be significant and, in the current financial and economic context, would add significant further financial pressures to the Council at a time of increasing economic and financial uncertainty and pressures. This approach is therefore not one which is considered prudent, and is not recommended. This option (council borrowing, or an element thereof) may be revisited in future when the next stages of proposed work are complete and the council has a better understanding for options to reduce costs and/or drive or accelerate income generation from within the EUE scheme.

Legal Implications:

There is a legal agreement in place with Homes England relating to the HIF funding and the Council is the accountable body for the projects. The grant funding agreement was signed on 29th November 2019. A deed of variation to the agreement was signed on 21st June 2021 and it updated key dates and the funding availability period in line with the project programme.

Devon County Council is acting as this Council's delivery partner. Given that the project involves highway infrastructure, it is appropriate that the County Council as Highway Authority takes on the responsibility for the project management, procurement, contracting and delivery. A formal agreement was signed between the two Councils to this effect on 16th August 2021. This agreement ensures compliance with the requirements of the HIF funding agreements and provides both Councils with financial safeguards. If a funding solution to the increased construction costs cannot be reached and agreed in writing by the two Councils then the County Council would be entitled to recover any project costs which it has incurred but not already received payment for.

The HIF Agreement places the Council under a best endeavours obligation to realise the delivery of up to 1000 new homes (850 market/150 affordable) and to seek to recoup the grant funding deployed to deliver the scheme through a S106 mechanism. The Council is then under a further obligation to seek to reinvest this funding in supporting the delivery of other housing delivery projects within the district.

The Agreement contains an agreed set of key milestone/completion dates – including completion of the project by September 2023. Should MDDC not proceed with the project, the Agreement allows Homes England to seek repayment of the grant monies expended – should it chose to. Although this places risk upon the Council, the risk of clawback is not deemed to be high as MDDC continues to seek to expedite delivery of the HIF funded works and is in close liaison with Homes England on matters relating to the project and Agreement.

However, it will be necessary to continue to keep key project milestones and contractual obligations under review and work closely with Homes England to monitor, and if necessary adjust, key milestone dates. A productive working relationship exists between MDDC and Homes England to support such discussions whilst DCC is also engaged in discussions with the partners.

It should be noted that the most recent works (works to relocate telecoms equipment and clear vegetation) benefitted from an indemnity against claw-back from Homes England. This therefore removes the risk of claw-back of this element of cost.

It should also be noted that, since it became apparent that the cost of the construction works would exceed the available, Homes England has sought to pause the release of further HIF funding to the scheme in order to mitigate the risk of abortive spend. This has meant that some planned works have had to be suspended, pending clarity on next steps and on overall scheme progression. Officers are however in talks with Homes England to seek to secure further funding (revenue and capital) to allow some necessary works to progress on site in the near term and to allow officers to undertake the further work required, detailed further below, to consider options to facilitate delivery of the scheme within the lifetime of the HIF programme.

Risk Assessment:

The Council is not currently in a position to be able to proceed to instruct DCC to let a contract relating to the next phase of the A361/HIF junction owing to the fact that the current construction cost projections significantly exceed the available project budget.

Not proceeding with works at this time will introduce a delay to delivery of works and present the Council with a challenging timetable to deliver the works before the end of the HIF programme (March 2024). Ultimately, if works cannot be completed by March 2024, this could see the withdrawal of committed funds by Homes England – although officers will work hard to seek to mitigate or avoid this risk.

Work is now progressing to consider options which would facilitate delivery of the next phase of works within the HIF timetable. This work is focused upon ways to both deliver additional funding for the works (ideally through further grants), or by reducing the cost of the works.

Work is also considering where programme efficiencies may be found in order to ensure works can be completed before the HIF spend deadline (March 2024).

Ultimately, any failure to deliver the scheme would significantly affect housing land supply and housing delivery, both locally and within the district as a whole. For this reason, non-delivery is therefore not an option which the Council would wish to pursue at this time.

Equality Impact Assessment:

There are none directly arising from this report.

Relationship to Corporate Plan:

This infrastructure project is 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.

Impact on Climate Change:

The new highway junction may, on the face of it, appear at odds with the Council's climate change declaration and the target of net-zero carbon emissions by 2030. However the scheme is important to support the delivery of development as foreseen within the Local Plan – the Local Plan providing for sustainable development within the district up to 2033, as well as providing policies for the protection and enhancement of the natural and built environments.

1.0 INTRODUCTION/BACKGROUND

- 1.1 A report was brought before Cabinet in August 2021 which provided an update in relation to the Housing Infrastructure Fund projects (Tiverton and Cullompton). In relation to this scheme, the report sought approval to continue to work with Devon County Council (DCC) to deliver the A361/HIF project and to bring a report back to Cabinet, once the procurement/tendering exercise was complete, to seek a formal decision relating to the entering into of the delivery contract for the works. The report also noted a projected shortfall in funding relating to the scheme of £1.9m and noted that this figure could be subject to further cost pressure.

- 1.2 The importance of this strategic infrastructure project is referred to above and its delivery is essential in order to unlock local planned housing delivery.
- 1.3 The County Council has now undertaken a competitive tendering exercise and a preferred bidder has been identified. However, the tender of the preferred bidder significantly exceeds the approved budget and exceeds the previous estimated shortfall of £1.9m. This is due to significant increases in construction sector costs and the need for an increased project contingency. The nature and scale of the cost increase is reflective of those being seen throughout the construction sector at this time, especially on large scale infrastructure projects.
- 1.4 Officers have sought to determine whether additional funding could be secured to support immediate delivery of the scheme, but discussions with partners have confirmed that they are currently unable to identify additional funding to support delivery of this project at this time. The Council is also not currently in a position to be able to dedicate additional funding to support delivery of this major infrastructure project. Clearly; although MDDC wishes to expedite delivery of this important enabling infrastructure to the benefit of Mid Devon, it is not typical for a district authority to fund or deliver major scale infrastructure projects of this type and funding the additional cost of the works would introduce a significant further financial pressure to the Council. Such a pressure is considered to be beyond the financial means of the Council at this time given the current financial and economic landscape.
- 1.5 As a consequence of the increased construction costs and limited project funding, it is not deemed prudent to recommend that the Council (MDDC) instructs DCC to let the construction contract at this time and it is instead recommended that Cabinet instructs officers to end the current tender process and notify bidders/contractors that the Council is not in a position to proceed with the works at this time.
- 1.6 Instead, it is proposed that MDDC work with key project partners (DCC and Homes England) to consider whether alternative options exist which might enable delivery of the scheme within the necessary timetable.
- 1.7 Options are expected to include opportunities to seek to reduce the cost of the proposed infrastructure (accepting the limited scope for this owing to current inflationary pressures within the construction sector) and to identify additional and/or alternative funding opportunities.
- 1.8 It is proposed that this work be completed as soon as possible and that an update be brought to Cabinet as soon as practically possible.
- 1.9 Options which could yield a reduction in the forecast works costs include seeking to utilise alternative construction methodologies (which incur less materials costs whilst delivering the same scheme outputs,

for example), or to reduce the scope of the project – delivering core aspects of the scheme which would be ‘in budget’ and omitting other elements or facilitating the delivery of these other elements at a later date/stage when further funding can be identified or secured.

- 1.10 Options to generate more funding for the scheme would involve continued discussions with projects partners to see whether additional grant funding could be made available to support delivery, or seeking to derive additional or accelerated funding/income through development.
- 1.11 Clearly, MDDC needs to be mindful of the obligations placed upon it by the terms of the HIF Grant Agreement with Homes England – both in terms of timetable and grant obligations relating to repayment. The current terms of the Agreement require scheme completion by September 2023 and, should the project not proceed, the Agreement would allow Homes England to seek to claw-back the grant funding paid to MDDC for delivery of the scheme, should it so choose. However, it should be noted that MDDC officers are keeping Homes England fully informed of developments on this project and that a productive working dialogue exists between all parties (MDDC, DCC and HE.)
- 1.12 Whilst further expenditure of the HIF funding has been paused at this time at the request of Homes England, discussions are ongoing with Homes England and a request has been made for funding to facilitate; further limited works on the site, including continued reptile translocation; further investigative works to determine the viability of alternative construction methodologies, and; for revenue funding to support optioneering and feasibility work. This work is considered necessary to both mitigate delay and risk to the project, but to also allow work to take place in order to seek to identify options to support delivery of the scheme in a timely manner.

2.0 CONCLUSION

- 2.1 The implementation of the A361 junction is essential to the delivery of the District’s local plan housing provision. However, the recent construction tender has revealed that current project funding is not sufficient to deliver the next phases of works within budget. This means that the Authority is not in a position to authorise instruction of these works at this time.
- 2.2 It is therefore recommended that the current tender process be stopped and that bidders be notified that the Council is not in a position to proceed with the works at this time.
- 2.3 It is also recommended that further work be undertaken to explore opportunities to facilitate delivery in a timely manner. This could involve reduction in construction costs, or the identification of additional/alternative or accelerated funding.

- 2.4 Once this work is complete, it is recommended that a report be brought back to Cabinet in order to further consider and determine next steps for the project.

Contact for more Information: Richard Marsh, Director of Place

Circulation of the Report: Cllr Richard Chesterton, Cabinet, Leadership Team

Background Papers:

1. Housing Infrastructure Fund and Project Update (Cabinet report), 3rd August 2021.
2. Housing Infrastructure Fund: Funding Agreements with Homes England (Cabinet report), 30th May 2019.