

Report for: Cabinet

Date of Meeting:	12 th November 2024
Subject:	Cullompton Town Centre Relief Road
Cabinet Member:	Cllr Steven Keable, Cabinet Member for Planning & Economic Regeneration
Responsible Officer:	Richard Marsh, Director of Place & Economy
Exempt:	There are no exemptions within the documents
Wards Affected:	District wide
Enclosures:	

Section 1 – Summary and Recommendation(s)

To update Members on the progress of discussions with Homes England over the Council's application for funding under the Housing Infrastructure Fund (HIF) to enable the delivery of Cullompton Town Centre Relief Road (CTCRR) and to seek authority to enter into updated grant funding agreements with Homes England and Devon County Council to enable delivery of the Relief Road.

Recommendation(s):

That Cabinet:

- 1. Approve entry into an updated grant funding agreement with Homes England to secure £33.5 million of Housing Infrastructure Fund monies and grant delegated authority to the Director of Place in consultation with the Section 151 Officer and Director of Legal, People and Governance to finalise and sign the agreements.**
- 2. Approve entry in to an updated Agreement with Devon County Council (as Delivery Partner) to enable delivery of the Relief Road by the County Council as Highways Authority.**
- 3. To approve the use of Homes England Capacity Funding (£109,150) to support workstreams during this financial year (24/25)**
- 4. To grant delegated authority to the Director of Place in consultation with the Section 151 Officer and Director of Legal, People and**

Governance to enter into any subsequent legal agreements should they become necessary to facilitate the completion of the project.

Section 2 – Report

1.0 Background/Introduction

- 1.1 In 2019 the District Council was successful in securing £10m from the Government's Housing Infrastructure Fund (HIF) to progress the delivery of a relief road for Cullompton. Planning permission was granted in January 2021 for both the relief road and a new site for Cullompton Cricket Club, the relocation of which is required by the scheme.
- 1.2 Since inception, the relief road scheme has become more technically complex. To a minor degree, this relates to additional design requirements introduced through the planning process, but the substantive aspect arises from the need for the scheme to accommodate complex flood risk mitigations and the supporting physical structures to do this. In addition to this, there have been unprecedented increases in construction costs over the last few years.
- 1.3 As a result of this funding gap the project was paused and the District Council submitted bids to the Government's Levelling Up Fund (LUF) tranches 1 and 2 to secure the balance of funding required to deliver the Relief Road, but these bids were unfortunately unsuccessful. The third round of the Levelling Up Fund was not a bidding process but funding was instead distributed by allocation. Devon County Council did not receive any allocation through this process. This was particularly disappointing as Devon County Council had agreed to make the Cullompton Town Centre Relief Road its priority scheme for the purposes of LUF3.
- 1.4 Since that time, officers have continued to proactively seek opportunities to fund the shortfall including ongoing discussions with Homes England regarding the potential to increase the amount of the Housing Infrastructure Fund to cover the funding gap. This resulted in a bid being submitted to Homes England in March 2024. The bid included, amongst other supporting evidence, a Quantified Risk Assessment (QRA) and revised construction programme. The Homes England decision making process was then delayed owing to the general election. During this time, the Council, supported by Homes England, proactively progressed initial relocation works of the Cricket Square in order to de-risk delivery, maintain project momentum and maintain the projects critical path to delivery. These initial Cricket pitch works have now been successfully completed.
- 1.5 In August 2024 the District Council was notified that Homes England had resolved to grant conditional approval for an additional £23.5m to the previous £10m of HIF funding and therefore cover the increased costs of delivery of the relief road.

- 1.6 Funding is predicated on the basis of housing growth unlocked. This totals 2,000 houses and is assumed to flow to delivery in the years following completion of the road. These homes are provided at NW Cullompton and the first phase of delivery at East Cullompton. Delivery of these homes is crucial in supporting and underpinning delivery of the Council's adopted Local Plan and in demonstrating delivery of new homes within the District's five year housing land requirement.
- 1.7 Homes England has invested in this infrastructure to unlock new homes in the area; however the wider benefits of the scheme in tackling long standing issues around congestion within the town and associated poor amenity and air quality are deemed hugely important by the local community and the district council.

2.0 The Grant funding agreement with Homes England

- 2.1 An offer letter for conditional grant funding for the additional £23.5m has been received from Homes England. In order to draw down this money, a funding agreement must be entered into between the Council and Homes England. Separate agreements will also be needed with Devon County Council to deliver the infrastructure in question (as DCC is the Highways Authority).
- 2.2 The grant funding agreement is set out in a standard form, but allows for project specific circumstances and milestones to be included. The agreement is an updated version of the previous contractual arrangements, which would have needed updating in any case to reflect changes in circumstance since the original HIF scheme was initiated. Officers, including the Legal Services Manager, have reviewed the draft Agreement and are continuing in negotiating and discussing specific matters and wording with Homes England – noting that the overarching principles and structure of the revised agreement were established through the bidding process and subsequent Homes England Board approval.
- 2.3 Homes England has made it clear that that there is an absolute commitment for delivery, with milestones included within the agreement to ensure effective and timely delivery. It should be noted however that in essence Mid Devon District Council is acting as the conduit for funding, with Devon County Council, as highway authority, being the responsible party for delivering the scheme to time and within budget. Consequently, as explained below, an agreement with Devon County Council is also being updated to ensure that this accords with the latest Homes England agreement and that risks are addressed, such as the County Council ensuring that the scheme is delivered on time and within budget and that should there be any cost/time overrun that the County Council would be responsible for meeting such costs. This is discussed in more detail under the 'risk' section later in this report.
- 2.4 Similar to the previous agreement, Homes England require that appropriate monitoring and reporting is undertaken. Provision has been put in place between the two Councils to ensure that these requirements are met and Governance arrangements have been enhanced.

Land Assembly Gateway

- 2.5 The agreement/Homes England approval includes a 'gateway', which requires satisfactory progress to be made with regard to land acquisition before the remaining funds can be drawn down.
- 2.6 Progress with regard to land acquisition is currently good with the County Council's land agent engaging proactively and positively with landowners' representatives. Most notably, and building upon the significant progress with the relocation works for the Cricket Club, contracts have been exchanged for the purchase of the replacement cricket ground site. Completion will occur on the 10th January 2025. It is also intended that an agreement with the Cricket Club transferring the existing pitch into DCC ownership will be completed prior to the 10th January 2025. The scheme also affects land owning to two other sports clubs and negotiations are underway to conclude land exchange agreements with those parties. Similar agreements with other land owners are also being actively pursued.
- 2.7 As members will be aware, Tesco is another major landowner which holds land required to deliver the relief road. Whilst discussions with Tesco have previously proved more complicated, Tesco's Board has recently (October 2024) confirmed its willingness to sell the land required for the scheme, subject to the finalisation of a contract of sale. This is another significant step forward for the scheme and towards delivery and the positive action of Tesco in this regard should be noted and acknowledged – especially as it avoids a protracted Compulsory Purchase Order (CPO) process to acquire the land and so should facilitate timely delivery of the road. This decision also reflects the significant time and effort invested by the project team and members in proactively engaging Tesco to support timely delivery of the relief road.
- 2.8 In addition to this, a CPO is currently being prepared by Devon County Council and it is hoped that this will be published before Christmas 2024. It should be noted that the publication of a CPO is normal practice for a scheme of this nature to ensure that all the affected land can be acquired in an orderly manner by the time construction is required and also in order to deal with any property interests required in unknown ownership. It is however still understood and expected that the required land will be secured by agreement – as with Tesco. Affected owners will therefore receive due compensation for any land interests which are required to deliver the relief road, or affected by it.
- 2.9 Members will hopefully therefore recognise that the project team has made exceptional progress in progressing land acquisition matters since the submission and approval of the revised bid in August 2024. The project team therefore consider that the District Council is in a strong position to be able to fulfil the gateway requirements established with Homes England and to allow the project to progress in to a more proactive phase of delivery.

Recycling of s106 funds

- 2.10 The Housing Infrastructure Fund is based on a commitment by recipients to recoup the HIF grant funding through development incomes. In the case of Mid Devon, this equates to a commitment to seek to recoup the grant funding through S106 incomes secured through planning applications. Homes England then requires that the Authority seeks to recycle and utilise these funds to support other housing growth and delivery initiatives within the district.
- 2.11 It is currently considered likely that recycled funding from the relief road project will be utilised to support delivery of the Junction 28 upgrade in order to support further investment into Cullompton and support further delivery at Culm Garden Village, in accordance with the Local Plan. Modelling has been undertaken to demonstrate that repayment of the full amount of HIF funding through s106 agreements is feasible and officers will proactively seek to secure these S106 contributions from development – subject to the usual considerations around viability and contributions to other outputs, including affordable housing and education etc.

3.0 Agreement with Devon County Council

- 3.1 As referred to above, given that Devon County Council (as Highway Authority) will be delivering the road scheme it is important that the current agreement in place with the County Council is updated to reflect the revised Agreement with Homes England and other MDDC project requirements.
- 3.2 Given the need to effectively manage and minimise risk to Mid Devon, the agreement with Devon County Council needs to be in close alignment with the requirements of the Homes England agreement. The Devon County agreement will set out the clear requirement for delivery and completion of the relief road by the County Council and that the highway authority will be responsible for any additional costs arising from programme slippage or any other cost incurred over and above the project budget (including contingency). It should be noted that at the time of making the bid Devon County Council considered very carefully the issue of risk, contingency and optimism bias and it is understood that this should be sufficient to meet any likely construction costs increases or programme delays. These assumptions were also assessed independently by Homes England's specialist consultants during the bid evaluation process. The District Council has also ensured that £3m of the s106 contributions secured to date be available flexibly during the project's life span to further reduce any cost profiling risks associated with meeting Homes England's annual spend and drawdown requirements. This £3m allowance is to be committed to the project on top of the £33.5m of funding from Homes England.
- 3.3 The agreement with the County Council will also ensure that robust governance arrangements are put in place to support delivery. It is understood that Devon County Council will be seeking their own Cabinet approval to the updated arrangements and to the formal progression of CPO procedures at their December Cabinet meeting.

4.0 Capacity funding

- 4.1 Homes England has also made available £109,150 of capacity revenue funding, for spend this financial year, to assist with accelerating land acquisition to help ensure that the programme submitted is still on track for delivery. Consultancy support has been mobilised in readiness to assist these workstreams and approval for the utilisation of this full funding package is also sought as part of this report. This funding is in addition to the HIF funding package and should be considered as demonstrating the support which Homes England is lending the relief road project and, by association, growth proposals within Cullompton.

5.0 J28 upgrade – progress update

- 5.1 Whilst updating in relation to the relief road, it is also appropriate to note that future growth in Cullompton (after that unlocked by delivery of the relief road) remains dependent upon a 'strategic upgrade' to Junction 28 of the M5 in order to deliver sufficient strategic highways capacity to support the level of planned growth around Cullompton. A Strategic Outline Business Case (SOBC) was submitted to the Department for Transport (DfT) in May and, whilst this remains under active consideration by the DfT, it is considered that the recent positive decision in relation to the relief road will further strengthen the likelihood of securing approval to progress through future design stages for the motorway upgrade and hopefully even to agree a full funding package to enable delivery.
- 5.2 Officers continue to engage key organisations in relation to this project (including DCC, the DfT and Homes England) and will keep members informed of progress.

Financial Implications: Delivery of the relief road through the utilisation of Housing Infrastructure Fund (HIF) and committed S106 monies will be pivotal in delivering against corporate aspirations to facilitate growth within the district and will, in turn, help to boost the local economy. The District Council is not directly financially contributing to this project over and above that which is already reflected in existing budgets and not beyond the suggested use of s106 monies (£3m).

It is clear however that an element of forward funding (cash flow) from Mid Devon and/or Devon County Council will be needed to provide funding for the projects. This is because the grant funding agreement 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 is still possible that the County Council will be required to bear project costs in the short term until the next quarterly HIF draw down payment is claimed and made in arrears. It should be noted that Officers are exploring opportunities with Homes England for monthly drawdown periods to minimise the amount of time that this cash flow period will be needed.

As referred to above any cost overruns from the project will need to be met by Devon County Council. The legal agreement with Devon County Council will specify this requirement.

As referred to in section 4 above, Homes England has also made available £109,150 of capacity revenue funding, for spend this financial year, to assist with accelerating land acquisition to help ensure that the programme submitted is still on track for delivery.

Legal Implications: This report considers the grant funding agreement for the HIF funding that will be required to be entered into between the Council and Homes England and the revised agreement required with Devon County Council. The Council (Mid Devon) will be the accountable body for the project. The contents of these grant funding agreements are being considered by the Legal Services Manager.

As required by Homes England, the Council has secured specialist external 'subsidy control' legal advice for the project with advice awaited. No issues are foreseen in relation to Subsidy Control as the project remains substantively as previously set out and this was deemed in compliance with State Aid regulations in force at the time.

Devon County Council will act as this Council's delivery partner. Given that the HIF project will involve highway infrastructure, it is appropriate that the County Council as Highway Authority takes on the responsibility for their project managing, procuring, contracting and delivery. A formal agreement is required between the two councils to this effect and to ensure compliance with the requirements of the HIF funding agreements.

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. It is anticipated that any future planning permissions will include a Grampian condition such that permissions will be conditional on completion of the road before any residential occupations can occur.

As referred to above, 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 the loss of public open space. There are a range of land ownerships and interests that will need to be addressed and be the subject of negotiation as the project progresses. This legal work is being undertaken by Devon County Council as Highway Authority.

Risk Assessment: The consequences to the authority of not accepting the full funding package now on offer for the relief road would be serious as not only is the scheme required to address air quality and amenity problems in the town centre, but also crucially failure to deliver it will compromise the ability to unlock planned housing within the district and affect housing land supply.

The need to meet agreed project and funding milestones are a significant risk. Close liaison took place with the County Council and its consultants prior to submission of the bid with the aim of ensuring that the programme and hence milestones for both schemes were realistic and achievable; however the delay in Government decision making owing to the general election has reduced the timetable available for delivery and has therefore introduced additional delivery risk. Nevertheless and despite this, with proactive progression of the project by the partners during this period (such as the commencement of works on the replacement cricket pitch), the programme and key milestones are still considered to be deliverable. Officers from both Councils will continue to work to de-risk the projects, liaise with Homes England and pursue delivery in accordance with the grant agreements.

It is appropriate and desirable for Mid Devon to continue with Devon County Council as its delivery partner as the County Council is the Highways Authority which will ultimately become responsible for the ownership and management of the new infrastructure and the County Council has the skills and resource required to deliver the project. Equally, the County Council has a track-record of successfully delivering other major road projects.

The bid to Homes England was supported by a Quantified Risk Assessment (QRA) and this was subject to third party review through the bidding process. The QRA will continue to be updated through the life of the project. It is understood that there is an element of risk with the project, as with any major infrastructure scheme; however the revised agreement with Devon County Council, has sought to minimise the level of risk as much as is practical.

Clearly, whilst officers have sought to minimise projects risks, ultimate 'delivery risk' will always rest with Mid Devon in that it is dependent upon delivery by a third party (Devon County Council). This risk has been mitigated as far as possible to date and officers will continue to proactively identify and manage risk, but the Council should remain clear that it is dependent upon the County for the delivery of this key

infrastructure project and the associated housing outputs which arise from its delivery and, in the unlikely event that the County defaults or fails in delivery, the District Council would still be bound by its commitment to deliver through the Homes England Agreement.

Governance arrangements are in place to provide continued MDDC oversight and input in to the project with MDDC having appointed a consultant project manager with experience of infrastructure delivery to support the delivery of the scheme. Senior officer and Member oversight (via the Cabinet Member) is also enabled through the project Governance structure and this oversight and close management is considered to be an appropriate mechanism through which to assure progress and proactively manage risk.

Impact on Climate Change: The relief road project is a scheme with planning permission which will deliver significant environmental improvements within the town centre, unlock significant development within Cullompton and reduce issues currently associated with congestion and pollution.

The scheme is therefore considered, on balance, to be one which should be pursued and delivered in order to deliver the benefits associated with the scheme. However, the road will create new highways infrastructure which will continue to support the use of private and public vehicles, despite the associated environmental impacts of emissions from such vehicles. The scheme does include enhanced provision for pedestrians and cyclists, along with improved bus stopping facilities on Station Road and opportunities will be proactively sought for other enhancement opportunities where they do not conflict with other objectives or negatively impact upon delivery of the scheme/future schemes.

Equalities Impact Assessment: There are no issues arising directly from this report.

Relationship to Corporate Plan: The CTCRR project is considered vital to enable development identified in the Local Plan to come forward and make a valuable contribution to delivering the Corporate Plan priority themes of Community, People & Equalities; Homes; and Economy & Assets.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett
Agreed by or on behalf of the Section 151
Date: 01/11/2024

Statutory Officer: Maria de Leburne
Agreed on behalf of the Monitoring Officer
Date: 01/11/2024

Chief Officer: Stephen Walford
Agreed by Chief Executive
Date: 01/11/2024

Performance and risk: Stephen Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 01/11/2024

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Richard Marsh, Director of Place & Economy

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Adrian Welsh, Strategic Manager Growth, Economy & Delivery

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Background papers:

Cabinet Report: 30th July 2024 [Cabinet Report July 2024](#)