

REPORT TO: STRATEGY AND RESOURCES

Date: 1ST July 2019

TOPIC: WESTACOTT HOUSING INFRASTRUCTURE FUND

REPORT BY: CHIEF EXECUTIVE/HEAD OF PLACE

1 INTRODUCTION

- 1.1 The Housing Infrastructure Fund (HIF) is a government fund awarded through Homes England which is intended to allow local authorities to front load infrastructure on housing sites where the provision of infrastructure by the developer would mean that the housing scheme was unviable.
- 1.2 The intention is that once the dwellings start being constructed, the developer will repay the funds under an agreed repayment mechanism which are then re-circulated by the local authority to bring forward further housing development.
- 1.3 The Council has been awarded funding in respect of two sites, Westacott and Ilfracombe southern extension. This report considers the Westacott site in Barnstaple.
- 1.4 The amount awarded in respect of Westacott is £2,600,000 which is to be used to provide a roundabout off the A361 to access the development.
- 1.5 This scheme is important to the Council as it needs to show that it can deliver housing allocated via the Local Plan. This site makes a significant contribution to housing land supply.
- 1.6 Initially, the fund was thought to be a simple grant to the Council but it has transpired that the agreement that the Council is required to enter into with Homes England, who are administering the scheme, contains particular provisions the effect of which need to be brought to the attention of Committee.

2 RECOMMENDATIONS

- 2.1 That Members note the content of this report.
- 2.2 That Members authorise the Chief Executive to enter into relevant agreements with Homes England in order to secure the funding and to enter into legal

charges secured on land owned by the developers of the schemes in order to secure repayment of the funds, the terms to be negotiated and approved by the Chief Executive and Head of Resources.

3 REASONS FOR RECOMMENDATIONS

3.1 In order to progress this HIF application, and deliver new housing.

4 REPORT

4.1 On the 23rd April 2019 we received the offer letter from Homes England confirming that this scheme had received the internal approvals to proceed with the formal award of grant subject to a number of conditions and the grant determination agreement. The grant award is to fund site access to the A361 for the new residential development.

4.2 The grant is for £2,600,000 to unlock the delivery of 820 homes.

4.3 The funding has to be spent by March 2022.

4.4 The grant is provided on the basis that it is recovered as the scheme progresses and recycled to deliver additional homes.

4.5 The approval is subject to the following conditions, which have to be agreed before any contract can be entered in to between the Council and Homes England:

Number	Condition	Date
1.	NDDC to obtain external independent state aid advice, to be shared with Homes England.	June 2019
2.	Confirmation of which infrastructure option will be delivered, by whom, and therefore the amount of HIF funding requested.	June 2019
3.	Formulation of a project delivery team and arrangements to ensure that delivery of infrastructure can be achieved by March 2022	June 2019
4.	Infrastructure and housing delivery strategy to be provided and approved by Homes England.	June 2019
5.	Confirmation of total funding package required for infrastructure works and wider project and how any shortfall will be covered.	June 2019
6.	HIF funded infrastructure spend profile to be provided taking into account the spend deadline has been extended to March 2022.	June 2019
7.	Updated appraisal provided to satisfaction of Homes England reflecting detailed cost plan and cashflow for HIF funded infrastructure works. This will need to have the final funding amount requested.	June 2019

8.	Recovery mechanism between NDDC and Barwood Lands to be agreed.	June 2019
9.	Detailed project programme to be provided including design, procurement and delivery of proposed infrastructure works.	June 2019
10.	Local Authority to underwrite to cover any shortfall in funding to ensure strategic infrastructure is delivered.	June 2019

Officers have been working through these conditions with Barwood Land and Devon County Council (DCC). Many of the above conditions require DCC input as it is very likely that they will deliver the roundabout as part of the wider Link Road scheme.

Further conditions then need to be met prior to any draw down of funds. Officers are currently working with all parties to amend the timetable to ensure the relevant dates can be met:

Number	Condition	Date
1.	Planning permission for infrastructure and housing works achieved.	July 2019
2.	Design work and cost plan finalised for HIF funded infrastructure.	December 2019
3.	Contractor procured for the HIF funded infrastructure works.	December 2019
4.	The land is offered with vacant possession and no third-party rights exist on the land, or that they have been settled prior to drawdown.	December 2019

- 4.6 Some of the requirements both in the above conditions and in the draft grant agreement received contain provisions which could be said to present a risk to the Council. Principle amongst these is that the Council should have legally enforceable methods of recovering the funds from the developer. The Council will also have various requirements to monitor the delivery of housing and to report this to Homes England. The Council need to be comfortable that any timetable presented by the developer is deliverable.
- 4.7 There is a clause that states that if the Council should breach any of the provisions, it must repay the amount granted. Because of the fact that the Council will be funding the provision of the infrastructure, there is a risk that if the Council cannot recover the monies from the developer, it will still have to repay that amount to Homes England. Given the size of the amounts involved, this risk needs to be highlighted.
- 4.8 The Council has obtained Counsel's opinion which states that the only reasonably certain way in which the Council can recover the amounts is

through a charge placed on land within the ownership of the developer. A market interest rate would then be charged.

4.9 The Council is currently in discussions with the developers over the terms of the necessary charges and the level and nature of security required. Any progress prior to committee will be reported verbally.

4.10 External legal support would be required to ensure that the Council complies with the terms of the agreements.

5 RESOURCE IMPLICATIONS

In order to progress the HIF applications in the manner laid out above, external advice will be required. The cost of that advice is not yet known but will be reported to Committee in a future update.

6 CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?
Part 3	Delegated

7 STATEMENT OF CONFIDENTIALITY

7.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

8 BACKGROUND PAPERS

8.1 The following background papers were used in the preparation of this report:

- Draft Agreement
- Offer Letter

The background papers are available for inspection and kept by the author of the report.

9 STATEMENT OF INTERNAL ADVICE

9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and Officers.

Author: K Miles/SJ Mackenzie-Shapland
2019
Reference:

Date: 10th June