



Date of Meeting: 30th July 2019

Lead Member: Cllr Ray Bryan – Lead Member for Highways, Travel and Environment

Lead Officer: John Sellgren, Executive Director for Place

Executive Summary:

In January 2018, Welbeck Strategic Land LLP made an application for outline planning permission to construct an urban extension upon land to the south of Gillingham between Shaftesbury Road (B3081) and New Road (B3092). This land is shown [on the plan annexed to this report] at Appendix 1.

Once complete, the urban extension will comprise of up to 961 dwellings and incorporate up to 2,642sq.m of retail, community, health, and leisure uses. The development will also include new and enhanced pedestrian/cycle routes, open spaces, roads, car parking and vehicular access.

The land forms part of a wider development site allocated for development by North Dorset District Council under the North Dorset Local Plan Part 1 2011-2031 (NDLP). The wider development site has the potential to deliver a further 749 homes and incorporates land controlled by CG Fry and Son Limited and Taylor Wimpey [as shown on the plan attached] at Appendix 2.

Following a successful bid by North Dorset District Council to Homes England for Housing Infrastructure Funding (HIF Funding), Dorset Council have the opportunity to access monies to enable the Council to design and construct the principal street within the Welbeck area and help serve the wider development. The grant is conditional upon the Council ultimately recovering the HIF Funding in full from the benefitting developers but with the agreement that any sums so recovered may be reinvested in housing projects throughout Dorset.

It is predicted that by removing the need for the developers to bear the cost of constructing the road upfront, that the overall construction programme for the wider development site may be accelerated by an estimated seven years.

This report recommends that Cabinet authorise entry into the Funding Agreement upon terms to be agreed by the Portfolio Holder in consultation with the Director for Place.

Equalities Impact Assessment:

An EqIA screening has been completed for this report. The design of the road would include a full EqIA.

Budget:

The Funding Agreement allows the Council to access up to £6,310,000 to design and construct the 1.38km section of the principal street shown coloured yellow on the plan attached to this report at Appendix 3.

Preliminary cost estimates (which include a 20% optimism bias) indicate that this sum should be adequate to cover the Council's total costs in designing and constructing the principal street.

The grant agreement does not make any provision for additional funding should the cost of designing and constructing road be greater than expected.

It has been agreed in principle with Homes England and the respective developers that the monies will be recovered by the Council by imposing obligations upon the developers in the Section 106 Agreements which will accompany planning permission for the wider development. However, these contributions will also be capped meaning that any shortfall between the HIF Funding and the actual costs of construction will need to be met by the Council.

The Council may only recover its actual costs under the funding agreement and any unspent sums must be returned to Homes England.

The Council would need to recover the monies in arrears and payment is linked to the Council satisfying a variety of pre-conditions and delivery milestones.

Should the Council persistently fail to meet its milestones, Homes England hold the right to terminate the agreement with immediate effect and request the return of any funding already drawn down.

Risk Assessment:

Having considered the risks associated with this decision, the level of risk has been identified as:

FINANCIAL RISK: MEDIUM

LEGAL RISK: LOW

STRATEGIC: MEDIUM

SAFETY, WELLBEING AND SAFEGUARDING: LOW

REPUTATION: LOW

SERVICE DELIVERY: LOW

Financial

The Council's ability to recover the monies expended in designing and constructing the principal street is dependent upon the Council satisfying a variety of pre-conditions and delivery milestones.

There is a financial risk to Dorset Council that the Funding Agreement could be terminated, or the funding withheld by Homes England, if these pre-conditions and milestones are not met. There are further financial risks if delivery milestones for the wider development are persistently missed. This could result in funding being returned to Homes England. To mitigate this risk, officers will closely monitor performance and renegotiate milestones with Homes England where necessary.

Although these pre-conditions are still under negotiation, some are linked to matters which are outside of the Council's control because they relate to the wider development.

Officers have developed a preliminary programme which demonstrates that the milestones set by Funding Agreement are achievable but whilst this preliminary programme makes allowance for some delays, a level of risk to the Council remains.

Strategic

The offer of HIF Funding is time sensitive and there is a risk of Homes England withdrawing the funding offer if the Council fails to enter into the Funding Agreement in a timely manner. Should this occur, the delivery of key elements of the development may be put at risk and there may be pressure to compromise on the provision of other community infrastructure and planning obligations.

Reputation/Strategic

The HIF Funding is to be used to construct the principal street of a site allocated for development by North Dorset District Council. The aim is to accelerate delivery of urban extension by removing the need for developers to pay for vital infrastructure at the outset of development. However, the Council cannot force development of this land and there is a risk that developers will not implement some or all of the planning permissions which are granted due to changes in economic circumstances. If this were to happen and the developers don't build as many homes as planned, the s106 obligations may be only partly enforced, or not at all, and Dorset Council may not be able to recover the funding.

Other Implications:

State Aid – the offer of Housing Infrastructure Funding has the potential for State Aid implications given that the financial intervention assists private developers in the delivery of housing. It is a pre-contract condition of the Grant Agreement to clarify whether the funding offer has any potential to breach State Aid rules. Advice

has been sought from solicitors Clarke Willmott LLP over the State Aid implications for this scheme. This advice demonstrates there would be no State Aid breach.

Recommendation:

That Cabinet authorise entry into a Funding Agreement with Homes England to secure up to £6,310,000 of Housing Infrastructure Funding on the terms and conditions to be agreed by the Portfolio Holder in consultation with the Director for Place.

Reason for Recommendation:

To promote and assist in the delivery of the proposed Gillingham Strategic Site Allocation by the former North Dorset District Council under the North Dorset Local Plan Part 1 2011-2031 (NDLP).

Appendices:

Appendix 1: *Plan of Welbeck Land.*

Appendix 2: *Plan of Gillingham Strategic Site.*

Appendix 3: *Plan of part of Principal Street proposed to be built by Dorset Council.*

Background Papers:

Housing Infrastructure Fund, Draft Grant Determination Agreement (not for publication)

Housing Infrastructure Fund – Standard Terms and Conditions.

North Dorset Local Plan Part 1 2011-2031 (NDLP).

Officer Contact:

Name: Andrew Galpin, Implementation Team Leader

Tel: 01305 838214

Email: andrew.galpin@dorsetcouncil.gov.uk

1. Introduction

- 1.1 The development of the Gillingham Strategic Site Allocation (as shown on the plan attached to this report as Appendix 2) forms a key part of the adopted North Dorset Local Plan and Development Strategy. The development will include a new primary school, sports and community facilities, open space and a local centre. The scheme has received other external funding from the Dorset Local Enterprise Partnership to facilitate the delivery of off-site highway improvements at the B3081 Shaftesbury Road / B3092 New Road junction and there are various planning obligations proposed for other highway, pedestrian and cycle improvements.

- 1.2 The Gillingham Strategic Site Allocation is controlled by a consortium including the land promotor Welbeck Strategic Land LLP, and two developers CG Fry & Son and Taylor Wimpey.
- 1.3 Officers were advised by the consortium that the development of the Gillingham Strategic Site Allocation is marginally economically viable due to the need to deliver large scale infrastructure in the early stages of development. Viability appraisals have been prepared by the consortium to demonstrate this position.
- 1.4 To prevent the development of this land from stalling, the former North Dorset District Council applied to Homes England for Housing Infrastructure Funding (HIF) with the aim of receiving a grant which would enable the principal street of the Gillingham Strategic Site Allocation) to be delivered at no upfront cost to the consortium. It is anticipated that the upfront principal street will enable the wider development to come forward in full by 2038.
- 1.5 Without this assistance it is predicted that the delivery of development will take place at a slower pace with the principal street constructed piecemeal, as and when individual phases of the development come forward.

2. The Funding Agreement

- 2.1 The funding agreement permits the Council to access up to £6,310,000 towards the costs of designing and constructing the principal street of the Gillingham Strategic Site Allocation. Work to design the principal street began in 2018 at cost to Dorset Council. There are provisions within the Funding Agreement to allow Dorset Council to draw down up to £235,000 within this current financial year to recover those scheme design costs incurred to date.
- 2.2 The HIF funding is offered subject to the condition that the Council agree a mechanism by which the monies received are ultimately recovered from the developers. It has been agreed in principle that the monies will be recovered by imposing obligations under the Section 106 Agreements which will accompany the planning permissions, requiring the developers to make capped contributions at various stages of construction. The use of Section 106 Agreements ensures that money is returned regardless of whether land ownership changes. The funding recovered by Dorset Council will be retained and used to assist in the delivery of other housing schemes across the Dorset Council area helping to improve the delivery of homes elsewhere and provide further public benefit.

- 2.3 The funding agreement does not make allowance for the total amount of HIF Funding to be increased should the design and construction of the road cost more than expected and as these additional monies may not be recoverable from the developers, there is a risk that any overspend would need to be met by the Council.
- 2.4 The monies expended by the Council in designing and constructing the road would be recovered in arrears by regular claims made to Homes England in accordance with the terms and conditions of the funding agreement. Payment is dependent upon the Council satisfying a variety of pre-conditions and reaching delivery milestones.
- 2.5 Officers are confident that the road can be designed and constructed in accordance with this delivery programme and have worked closely with the consortium of developers in designing the programme to mitigate these risks. The design stage has been refined to take account of preliminary site investigations such as levels and surface water flooding. The build phase will be delivered in collaboration with a highways contractor under the Dorset Highways - Works Term Service Contract.
- 2.6 As the grant has been awarded with the aim of accelerating development of the Gillingham Strategic Site Allocation, some of the pre-conditions and milestones require third party involvement and this does create a degree of risk, as these matters will be outside of the Council's control.
- 2.7 Nevertheless, officers are confident that the delivery of the wider Gillingham Strategic Site Allocation will be delivered in accordance with the timescales provided by the consortium.
- 2.8 Should quarterly monitoring identify the potential for a future milestone to be missed, officers will work with Homes England to agree and implement revised milestones.
- 2.9 In securing this funding and delivering the principal street, it is expected to increase the pace at which new homes are delivered, building a strong and inclusive sustainable community with infrastructure that will support people to live and work in the Gillingham area.
- 2.10 Delivery of the principal street up front will increase the pace of development reducing disruption to the wider road network and amenity of new and existing residents. The street will enable pedestrian and cycle connectivity to serve the wider development and beyond.

3. Land Ownership and Access for Construction

- 3.1 The Council will require access to the land controlled by Welbeck Strategic Land LLP to construct the principal street, this will be a pre-condition to drawing down the HIF Funding.
- 3.2 Although, Welbeck Strategic Land LLP have control of the land by a series of promotion and option agreements the land remains in private ownership.
- 3.3 It is proposed that the Council will obtain the necessary rights by entering into an agreement under the Highways Act 1980 with Welbeck Strategic Land LLP and the various landowners and that this agreement will also provide for the dedication and adoption of the principal street as a highway maintainable at the public expense.
- 3.4 This agreement will be authorised by the appropriate officer under the Council's Scheme of Delegation.