

## Report of the Director of City Development

### Report to Executive Board

**Date: 20 September 2017**

### Subject: Delivering the East of Otley Housing Allocation

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Otley & Yeadon		
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		

### Summary of main issues

1. In taking forward Best Council Plan priorities for regeneration, growth, infrastructure, and environmental enhancement, the Development Plan for Leeds has a key role to play in shaping the future form, location and overall pattern of development. Within the Development Plan the Leeds Core Strategy sets the main spatial planning policies and the scale and distribution of housing growth required to meet the city's needs over the plan period to 2028. The location of new housing development is determined through reference to allocations in the adopted Leeds Unitary Development Plan (UDP) and the Site Allocations Plan (SAP).
2. The East of Otley site is allocated for housing and employment in the UDP and has been subsequently incorporated as an identified site as part of the SAP as a major mixed use site (ref.MX1-26) lying within the Outer North West Housing Market Characteristic Area. Following consideration by Executive Board (8<sup>th</sup> February 2017) and Full Council (29<sup>th</sup> March 2017) the SAP has been submitted for independent examination (5<sup>th</sup> May) with hearing sessions scheduled to commence on 10<sup>th</sup> October. The Plan is therefore at an advanced stage.

3. This is a key strategic site on the eastern edge of Otley (identified as a Major Settlement in the adopted Core Strategy) and is in a sustainable location. The allocation entails the delivery of a mixed use development including the East of Otley Relief Road (EORR) to service the development (and for the wider economic, social and environmental benefit of Otley as a whole), 550 new homes, 5 ha of employment land, a new primary school and green space.
4. The delivery of the site is however complex and a key priority is the delivery of the EORR to unlock site phasing and delivery and to achieve the wider environmental, social and economic benefits this would bring. The focus of this report therefore is to establish appropriate mechanisms to help fund and deliver the road, as a basis to engage with agents and developers. A number of options have been explored to help fund this infrastructure and to address viability issues. Two approaches have been identified.
5. Firstly, the Council owns land within and adjoining the development allocation and has been party to initial discussions with the other landowners as to how this might be included in any development proposals in such a way as to enable and bring forward the delivery of the essential infrastructure to support development. The key principles that should inform this approach are set out in the report for Executive Board's consideration.
6. Secondly, the Government has recently launched the Housing Infrastructure Fund, a £2.3 billion capital grant programme, which is currently open for bidding to support schemes that require financial assistance for major infrastructure works that will unlock housing development. Part of this fund can be bid for by local authorities, as a basis to address funding gaps of up to £10m on challenging housing schemes. The deadline for HIF submissions is 28<sup>th</sup> September. The Council has been working closely with the lead site agents and developers with a view to making a submission for support to the EORR.

## **Recommendation**

7. Members are invited to:
  - i) Agree the Heads of Terms outlined in Section 3.6 to enable a detailed agreement to be developed for further consideration by Executive Board; and
  - ii) Note the proposal to develop a marginal viability application with the developers of the East of Otley site, for submission to the HIF.

## **1 Purpose of this Report**

- 1.1 The purpose of this report is to seek Executive Board approval to the key principles of a potential transaction for land in the Council's ownership that will enable the development of the East of Otley mixed use development allocation.

## **2 Background**

- 2.1 The East of Otley site, is a key mixed use site allocated in the adopted Leeds 2006 UDP Review and now incorporated into the SAP (site reference MX1-26) as an identified site in the Outer North West Housing Market Characteristic Area (HMCA). The site allocation is shown at Appendix 1. This is a key strategic site in a sustainable location. The delivery of the site and associated infrastructure, will bring a number of economic, social and environmental objectives for Otley. In achieving this, a number of planning policy objectives need to be met, together with securing the necessary funding and delivery mechanisms to ensure that the necessary infrastructure is in place.
- 2.2 The East of Otley UDP allocation has been carried forward into the draft Site Allocations Plan (SAP) as an identified site, with an indicative capacity of 550 residential units, 5ha of employment land, requirement for a new primary school and green space. An integral component of the allocation is the completion of the East of Otley Relief Road (EORR), within an agreed phased timescale and within 5 years of commencement of the housing development. This would not only serve the allocation site but would bring wider benefits to Otley as a whole.
- 2.3 The SAP was submitted to the Secretary of State for independent examination on the 5<sup>th</sup> May and the hearings are due to commence on the 10<sup>th</sup> October. The East of Otley site was subject to a significant number of representations during the consultation for the SAP, in particular reinforcing the need for infrastructure provision to support the delivery of the site. It should be noted also that the preparation of a Neighbourhood Plan is underway in Otley and the delivery of this allocation and the policy requirements arising from it are reflected as important issues locally.
- 2.4 The site is predominantly grazing and agricultural land with a small number of isolated residential uses contained within the site. There are also 0.8 Ha of horticultural glasshouses related to an adjoining commercial use.

## **3 Main Issues**

### Site & Delivery Issues

- 3.1 This is an important and strategic allocation (c30ha) within the HMCA, with the potential to deliver a number of benefits to Otley. The mixed use nature of the allocation will provide the opportunity for new homes (including affordable housing), together with new employment land for which there is a recognised shortfall in the Outer North West area. Within this overall context, the delivery

of the EORR will also bring significant benefits to the local area and the strategic highway network.

- 3.2 Notwithstanding these benefits, the site presents a number of challenges. The development of the full site will require land assembly and the relocation of a number of sports pitches. It is also adjacent to the former Ings Tip household waste site (shown on Appendix 1), which is in Council ownership having transferred from the former West Yorkshire Waste Management Authority. The site of the former tip is identified as green space in the SAP, and a firm of geotechnical specialists has been commissioned to investigate it, so that the Council can fully understand its obligations as a responsible land owner.
- 3.3 With regard to the EORR, this will need to be a new construction located to the east of the site of approximately 1.4km in length linking from the A659/Pool Road north of the site to the A660 Leeds Road, to the South West. The delivery of this road is a major undertaking and it is understood that ground conditions are a particular issue on part of the SW section of the route, which will impact on the cost of delivery.

#### Land Ownerships & Masterplan

- 3.4 The allocated development site is in mixed land ownership, as shown at Appendix 2 – the main landowners are the Council (6.4 Ha) and Persimmon Homes (3 Ha). Other land owners are comprised of:
- Lawson (6 Ha)
  - Richardson (5 Ha)
  - Hutchinson (3 Ha)
  - Bramley & Bramley Proctor (2 Ha)
  - BBS (1 Ha)
  - Smith & Clifford/Smith (2 Ha)
  - Others (1Ha)
- 3.5 Barratt David Wilson Homes who are working with Persimmon Homes on progressing the scheme also have a number of Option agreements with various landowners within the site boundary.
- 3.6 Agents acting on behalf of the developers, are working on a draft masterplan for the site to set out the proposed location of the land uses required by the UDP. Specifically, the master plan will need to demonstrate how the site can accommodate:
- 550 dwellings
  - EORR
  - Relocation and provision of Sports Pitches
  - A new two-form entry primary school
  - Elderly person's accommodation
  - 5 hectares of Employment Land
  - Public Open Space

- 3.7 Based on land ownerships and level of site assembly completed to date initial indications are that two main discrete phases of development would be required, though as the scheme progresses to implementation through the planning process, it is likely that a more detailed breakdown of phasing will be introduced.
- 3.8 Phase 1 of the scheme would require the EORR to be delivered alongside a proportionate mix of the development requirements in the planning allocation including public open space, employment uses, relocation of sports pitches and the new school. Development could commence alongside construction of the EORR. The route of the EORR would require land that has been assembled and is separately in the freehold ownership (or under Option to) the developers and the Council.
- 3.9 Phase 2 would deliver the balance of the components of the mixed use allocation.
- 3.10 Subject to the acceptability in planning terms of the balance and mix of uses across the two proposed phases of the development, how the Council treats its land to facilitate the delivery of the relief road and the development of the whole housing allocation in the East of Otley area is clearly an important consideration. Accordingly, on the basis that it is important for the land to come forward to help facilitate plan-led development it is proposed that the Council uses its land holdings in an enabling way to help unlock the delivery of the road and a policy compliant mixed use development of the site.
- 3.11 To that end, a key element of this is how any property transaction is structured. The following principles are proposed:
- Council-owned land within the UDP mixed use allocation is sold to the developers on best consideration terms as part of Phase 1 of the development (this is on the basis of a direct one to one transaction with one of the developers);
  - Phase 1 to include the construction of the entire East of Otley Relief Road by the developers under appropriate contractual obligations;
  - Subject to the success of any applications for external funding assistance, a grant is paid by the Council to the developer, equal to the amount received for disposal of the Council's Phase 1 land, to be used solely towards the construction/delivery of the road;
  - The Council reserves its position in terms of any capital receipt/return from Phase 2 of the development but expects a suitable commercial return in view of its contribution to the delivery of the road under Phase 1 and the land value created as a result in Phase 2;
  - The Council reserves its position in respect of the Council owned land at the adjoining former Ings Tip and how this might be treated as part of or in relation to the adjoining development proposals.
- 3.12 Executive Board is asked to consider and approve these principles to inform Heads of Terms and to underpin further discussion between the Council and developers towards enabling the delivery of the EORR and related housing scheme.

### Housing Infrastructure Fund (HIF)

- 3.13 Linked to the above, the Council can also consider the potential to secure grant funds to help deliver a policy compliant housing development.
- 3.14 The Government has recently announced a £2.3 billion Housing Infrastructure Fund (HIF) which will be awarded to local authorities on a highly competitive basis, providing grant funding for new infrastructure that will unlock new homes in the areas of greatest housing demand nationally.
- 3.15 The HIF has two components, both of which are to be bid for competitively as grants. The Marginal Viability Fund component can be bid for by local authorities and is 'gap funding' of up to £10m to deliver the essential physical infrastructure that may be required to progress a housing development, but which may be currently be a cause of unviability. Officers have worked with the developers of the East of Otley UDP allocation to scope out a bid for funding through this route, with a view to submission by the government's deadline at the end of September.
- 3.16 The outcome of Marginal Viability Fund bids would be known in late 2017/2018 and should any bid for funding for the EORR prove successful the Council would still seek to dispose of its land in Phase 1 on best consideration terms but would reconsider the extent to which it would need to offer any grant to the project from this receipt, according to the level of grant funding secured in relation to the costs of the infrastructure.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The mixed use allocation to the East of Otley has previously been subject to public consultation as part of the UDP and SAP. Implementation issues relating to the allocation have also been discussed with Otley Town Council in the preparation of the emerging Otley Neighbourhood Plan. Discussion has also taken place between local ward members the developers and their agents and Otley Town Council regarding the issues associated with bringing this site forward. Council officers have also worked directly with the developers and their agent in working up the HIF bid for submission.
- 4.1.2 Further consultation will take place with the Executive Member for Regeneration, Transport and Planning, ward members and other local stakeholders as further details are developed in discussion with the developers and other landowners.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 An Equality and Diversity, Cohesion and Integration (EDCI) screening has been completed to inform the consideration of the issues set out in this report. As the recommendations relate to the principles of a land transaction

it is assessed that at this stage there are no EDCI implications but this will be kept under review through the next stages of work to bring forward this development and the related infrastructure. The EDCI screening document is attached at Appendix 3.

#### **4.3 Council Policies and Best Council Plan**

- 4.3.1 The adopted UDP, Core Strategy and the SAP, play a key strategic role in taking forward the spatial and land use elements of the Vision for Leeds and the aspiration to be the 'the Best City in the UK'. Related to this overarching approach and in addressing a range of social, environmental and economic objectives, these Plans seek to support delivery of our ambition to be a strong economy and a compassionate city as set out in the Best Council Plan. In particular, they support the Best Council Plan priorities on transport and infrastructure, low carbon, good growth, health and wellbeing and resilient communities.

#### **4.4 Resources and value for money**

- 4.4.1 Under the principles set out in this report the Council would seek best consideration for its land as part of any transaction to enable the development and related infrastructure at the East of Otley site.

#### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 Under the Localism Act 2011, the local authority has the power (subject to limitations) to do anything that individuals generally may do, and this would include promoting or improving the economic, social or environmental well-being of its area.
- 4.5.2 The Council has the power to dispose of land in any manner they wish under section 123 of the Local Government Act 1972. However, unless the government consents, usually the disposal must not be for less than the best consideration that can reasonably be obtained.
- 4.5.3 The provision of public infrastructure is usually considered to fall outside the provisions of the European Commission's rules as to the provision of State Aid, provided that there will be no subsequent commercial exploitation of the infrastructure. However, where the infrastructure provides a benefit to an undertaking engaged in commercial activities it is possible that State aid will arise.
- 4.5.4 EORR will benefit developers in that it will unlock land which they own or have an option to acquire for development. It is also possible that EORR will enhance the value of such land. It is therefore possible that State Aid may indirectly arise to these developers through the public funding of the infrastructure. Legal advice will be sought at each stage of the process.
- 4.5.5 Should the Council bid for and be successful in obtaining grant funding through the Housing Infrastructure Fund, the monies would be paid directly to the Council through s31 of the Local Government Act. The Council would

be responsible for spending any funding received in accordance with all applicable legal requirements.

4.5.6 This report is subject to call in.

#### **4.6 Risk Management**

4.6.1 Subject to Executive Board approval the Council would approach any potential transaction based on the principles established in this report, specifically to ensure both Best Consideration in any transaction for its land and that the delivery of the EORR is secured as part of a policy compliant approach to development of the site. No commitment to a transaction will be made unless and until the Council can gain certainty on these matters and subject to further appropriate consultation with the Executive Member for Regeneration, Transport and Planning and relevant governance approvals.

4.6.2 Work is underway with the main development interests and their agent on planning and development appraisals to establish the full development scope and phasing, alongside an estimate of costs relating to the EORR and anticipated land values.

4.6.3 The Housing Infrastructure Fund (HIF) is a national grant programme and it is expected to be highly competitive. It has been indicated that the Marginal Viability Fund component of HIF is likely to be heavily over-subscribed and therefore any bids will need to be robust and compelling in terms of detail, value for money and deliverability. The Council has an ongoing dialogue with government through the Department of Communities and Local Government (DCLG) and the Homes & Communities Agency (HCA) in regard to the HIF and will ensure there is a clear understanding of bids coming forward. A HIF submission for the East of Otley site will require a significant amount of work between the Council and developers by the end of September to generate sufficient detail and certainty in this respect.

### **5 Conclusions**

5.1 The East of Otley site is a strategic mixed use development allocation in the Outer North West HMCA and will play a key role in delivering housing and employment needs for Otley and the wider city.

5.2 The site is deliverable subject to joint working between the landowners to establish a policy compliant phased approach to development that enables the early delivery of the EORR. As a landowner the Council has a key role to play in unlocking this development site and key principles that would govern how its land is treated in any transaction have been set out in this report with a view to taking an enabling approach, subject to Executive Board approval. Additionally, the Council has identified the opportunity to bid for grant funding through the government's Housing Infrastructure Fund that could support the delivery of the EORR.



## **6 Recommendations**

6.1 Members are invited to:

- i) Agree the Heads of Terms outlined in Section 3.6 to enable a detailed agreement to be developed for further consideration by Executive Board; and
- ii) Note the proposal to develop a marginal viability application with the developers of the East of Otley site, for submission to the HIF.

## **7 Appendices**

Appendix 1 Plan of Site Allocation  
Appendix 2 Plan of Land Ownerships  
Appendix 3 EDCI Screening

## **8 Background documents<sup>1</sup>**

8.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.