
Report of Director of City Development

Report to Executive Board

Date: 22nd January 2014

Subject: **East Leeds Extension – Next Steps in Enabling Investment in Infrastructure and Housing**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Cross Gates & Whinmoor, Harewood	
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	<input type="checkbox"/> 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. The East Leeds Extension (ELE) is the single largest area of allocated green field housing land in the city. Together with adjacent land with planning permissions and emerging proposals for residential development the area has potential to accommodate up to 7000 new homes as a significant contribution to the city's housing growth targets for 2028, as set out in the Core Strategy. The ELE represents an opportunity for the Council to work with partners in embedding the Best City ambitions from the outset, delivering critical infrastructure and ensuring the creation of 'liveable places' in an area of major growth.
2. Development of the ELE will require the co-ordinated provision of significant social and physical infrastructure across a large area, working with a range of land and development interests. Central to this will be the delivery of a new East Leeds Orbital Road (ELOR) to enable and support development, open up the full housing capacity of the area and to offer strategic transport and movement benefits for this part of the city. Whilst the ambition is for development of the area to meet principles of high quality place making, there is initial focus on the scope of the ELOR and how it should be funded and delivered.

3. At its meeting in October 2013 Executive Board noted the outcome of a feasibility study into the ELOR and approved the next phase of more detailed work to move towards a planning application for the road. It also noted the range of public funding sources that may be accessed in securing its delivery. The recent Autumn Statement by the government has indicated the availability of infrastructure loan funding for Leeds to support the ELE, subject to further work with the HCA and other land/development interests.
4. The Board also approved continued work by the Chief Planning Officer to explore suitable means of establishing appropriate contributions from developers in the ELE to deliver ELOR at as early stage as is possible. Work has progressed to establish the basis on which these contributions should be made, informed by discussions with the Northern Quadrant consortium, which has submitted the first proposals for development of 2,000 homes and construction of a segment of ELOR between the A58 and A64. A proposal has been made by the developer to an arrangement that would secure private contributions to the construction of ELOR in this section of the ELE and place early delivery of the road in the hands of the Council, subject to availability of other sources of public funding.
5. A potential principle arises from these discussions, for developer contributions to each section of ELOR to be based on the estimated cost of that section alone and the number of homes that could be built in the related part of the ELE allocation. The report sets out matters for consideration in establishing developer contributions across the whole allocation, including how any public funds secured could be applied, the effect of these on the calculation of developers' ELOR contributions and the relationship of the contributions to other s106 payments and to viability.

Recommendations

Executive Board is asked to note the position reached in discussions with the Northern Quadrant consortium as set out in the report and to:

- i. Support the principle that (subject to the grant of planning permission) the delivery of the East Leeds Orbital Road between the A58 and A64 roundabouts should be funded by developer contributions, to be included in a s106 agreement to be negotiated by the Chief Planning Officer (paragraphs 3.8 – 3.12);
- ii. Approve the principle of direct delivery by the City Council of the East Leeds Orbital Road between the A58 and A64, to be led by the Chief Highways & Transportation Officer, subject to securing the necessary statutory consents, the grant of planning permission including the completion of the s106 agreement and the approval of a detailed financial business case (paragraphs 3.10 – 3.12);
- iii. Approve that the Chief Highways & Transportation Officer progresses delivery of the East Leeds Orbital Road between the A58 and A64 on the basis that, should any compulsory purchase of land be required, the s106 agreement negotiated by the Chief Planning Officer will include an indemnity to the Council from the Northern Quadrant consortium for all costs properly incurred in pursuing a CPO (paragraphs 3.20 – 3.22);

- iv. Agree that a further report should be brought back to Executive Board by the Director of City Development, to agree the specific financial implications for the Council as early as possible once the details of the s106 Agreement for the Northern Quadrant have been established;
- v. Approve that the approach set out in recommendations (i) and (ii) above is used as a basis for the Chief Planning Officer to lead discussions with landowners and developers in the Red Hall, Middle and Southern Quadrants of the East Leeds Extension for establishing developer contributions to the funding of the East Leeds Orbital Road (as set out in paragraphs 3.25 – 3.27), subject to the further legal clarification referred to in paragraph 3.30 of this report;
- vi. Note the due diligence now underway with the Homes and Communities Agency and development interests to secure access to up to £15.2m of support in the form of loans or equity from the government's Local Infrastructure Fund towards the costs of delivering the East Leeds Orbital Road to support the development of housing in the East Leeds Extension (paragraphs 3.32 – 3.33).

1. Purpose of this report

- 1.1 This report provides details of work undertaken to establish the principles on which the financial contribution of housing developers to the construction of the East Leeds Orbital Road (ELOR) could be based.
- 1.2 City Plans Panel has already noted the principles that will inform the amount, phasing and prioritisation of developer contributions to the delivery of the ELOR in the Northern Quadrant. Executive Board is asked to note the rationale behind the approach proposed and to consider the implications for the Council and its role in leading the delivery of infrastructure and housing in the East Leeds Extension.
- 1.3 It is anticipated that the Northern Quadrant planning application will be reported to the February 2014 meeting of the City Plans Panel for determination and final agreement of the principles for developer contributions to that section of ELOR. Following this it is proposed to bring a further report to Executive Board to confirm the position reached and to set out the specific financial implications, with an update on the availability of public funding.

2 Background information

- 2.4 The East Leeds Extension (ELE) is an area of UDP-allocated green field housing land covering some 215ha at the edge of the city. Together with adjacent sites that have planning permissions at Grimes Dyke and at Manston Lane the area has the potential to accommodate up to 7000 new homes and make a significant contribution to the Core Strategy housing growth target of 70,000 new homes by 2028.
- 2.5 The ELE is the single largest opportunity in the city to deliver new high quality residential neighbourhoods on allocated green field housing land. Alongside related development proposals in the area it offers a spatial focus for the delivery of the Best City ambition and an opportunity from the very earliest planning stages to ensure that the Best Council objectives are reflected in the approach to design and development of the area:
 - to ***promote sustainable and inclusive economic*** growth, by providing new housing and meeting housing needs as the city grows, boosting the local economy, delivering new social and physical infrastructure and improving travel and access to new employment opportunities;
 - to create a ***child friendly city*** through the integral design and provision of new schools, open spaces, play and leisure facilities, ensuring there are enough school places as the city grows and meeting the needs of young people to grow up in a safe, welcoming child-friendly neighbourhood;
 - to assist in delivering the ***better lives*** programme by meeting the needs of older people through new housing choices and new local health facilities;

- to enable **positive public health** outcomes through the provision of new primary health facilities, opportunities for active leisure, planning for pedestrians and cyclists and enabling access to good quality affordable housing;
 - to ensure that **sustainable development** is achieved in a way that meets the growth needs of the city whilst protecting the character and improving the amenity of existing neighbourhoods.
- 2.6 The process of ‘place-making’ for the ELE will therefore embrace the planning and delivery of new homes, schools, retail and community facilities, green spaces, sports, leisure and play facilities, health care, transport and movement infrastructure. There is the potential for significant employment growth at the adjoining Thorpe Park to complement the ELE as a desirable residential neighbourhood with high quality transport links, new community facilities and access to local jobs and training, which would also benefit existing neighbourhoods in the area and contribute to the regeneration of East Leeds as a whole.
- 2.7 The emphasis will be on ‘liveability’ and ‘sustainability’ of the new neighbourhoods, through the application of design principles that are in accordance with the Local Planning Authority’s best practice guidance on residential development, (the ‘Neighbourhoods for Living’ Supplementary Planning Document) and the draft Core Strategy, which states that new development will be expected to deliver high quality innovative design that has evolved, where appropriate, through community consultation and which respects and enhances the variety of existing landscapes, streets, spaces and buildings according to the particular local distinctiveness and wider setting of the place, contributing positively towards quality of life and being accessible to all.
- 2.8 The delivery of new homes and neighbourhoods in the ELE is a multi-faceted and complex exercise that requires co-ordination with a range of development interests and public service providers across a number of land ownerships and over a period likely to span several years. In securing and supporting development here the emphasis will need to be on creating high quality new places that fit with the surrounding areas and which can improve local quality of life equally as much as it will be about securing new housing at a volume that supports the city’s housing needs.
- 2.9 Central to ability to deliver on this ambition is the requirement to provide a new East Leeds Orbital Road (ELOR) as part of the policy associated with the original UDP allocation, to support all allocated and approved development in the East Leeds Extension and to achieve the strategic highway objective to provide an upgrade in orbital capacity, to enhance links from north Leeds and beyond to the M1, with the benefit of reducing traffic in urban Leeds and relieving congestion on the existing road network.
- 2.10 The ELE is best understood as four overall sections, with a strong relationship to an adjoining fifth section, all of which would be connected by the route of ELOR. Appendix 1 shows this overview of the ELE.

- 2.11 In **Section 1 – Red Hall**, the Council itself owns the majority of the land, which was the subject of a report to Executive Board in September 2013. Members approved drafting of an Informal Planning Statement for the site that following relocation of the existing Parks & Countryside nursery would guide possible future development and set out the requirement for local infrastructure and facilities. The detailed brief will be developed during 2014 and will be subject to consultation with local residents and other stakeholders.
- 2.12 In **Section 2 – Northern Quadrant**, development proposals are already being progressed. An outline planning application for 2,000 new homes, incorporating a new local centre with scope for retail, community and health facilities and a new two-form entry primary school (which would also accommodate primary needs arising from development at Red Hall), has been submitted by a consortium of developers and landowners. The application includes details for the proposed route of ELOR across this site, joining the A58 and A64 through the provision of new roundabout junctions and the phased delivery of the connecting highway infrastructure. This application has yet to be determined but has been presented to meetings of the City Plans Panel in May 2012, March and December 2013. The proposals have the potential to make an early and significant contribution to the delivery of the Core Strategy housing growth targets through the creation of a new residential neighbourhood with facilities that would support and benefit both it and the existing adjoining communities.
- 2.13 In **Section 3 – Middle Quadrant**, there are no current development proposals, but capacity for an estimated 1,000 new homes. Land ownership here is not consolidated into a single vehicle for development; whilst there are a number of smaller land interests in this part of the ELE there are also large parcels owned or optioned to two major house builders. The Council also has land holdings here. The route of ELOR would need to pass through this section, joining the A64 to Barwick Road and requiring future modification to the interim A64 roundabout.
- 2.14 In **Section 4 – Southern Quadrant**, there are no current development proposals, but capacity for an estimated 1,500 new homes. Development land here is not consolidated into a single vehicle for development but is split into large parcels owned by a single major house builder, the Council and a private family trust. The route of ELOR would need to pass through this section, joining Barwick Road to Manston Lane.
- 2.15 **Section 5 – Thorpe Park** is not part of the ELE UDP allocation for housing but will be instrumental in providing economic growth and jobs for local people and in enabling ELOR to work as a strategic orbital road. An outline planning application for a revised approach to development of Thorpe Park was approved by City Plans Panel on 19th September; the Secretary of State decided not to call the

application in for his determination. Planning permission will be issued on the execution of a s106 agreement. The outline approval will establish principles for a revised mix of uses away from solely offices to include retail and leisure uses as well. Related detailed planning approvals have been issued for road infrastructure to connect the M1 to Manston Lane through Thorpe Park, to provide access to the new development but also to facilitate a future connection with the route of the ELOR over the main rail line. This infrastructure will also open up development potential for the delivery of future housing on brownfield land on Manston Lane itself.

- 2.16 It is evident that development proposals are being brought forward in discrete sections and that these will inevitably take place on different timescales as the result of commercial considerations.
- 2.17 To speed delivery, in January 2013 Executive Board agreed that the Council should take a leading role in co-ordinating the delivery of ELOR, as early as possible, to support housing growth in this part of the city. The Council's position is clear in that it recognises the benefits this new strategic highway will bring, not only to residents and businesses in East Leeds but also to the wider city.
- 2.18 At its meeting in October 2013 Executive Board noted the outcome of a feasibility study into ELOR commissioned by the Council. The study confirmed the requirements for ELOR to be a new dual carriageway, designed at a 50mph speed limit, with junctions limited to roundabouts where the road would cross main routes. The road will join the Outer Ring Road at Red Hall around the east side of Leeds to Thorpe Park, to a new Manston Lane Link Road (MLLR) where it would connect into the existing highway infrastructure and link to the M1 motorway. It set out an indicative overall route of 7.33 km (4.6 miles). ELOR would form part of a wider transport and movement strategy for the area, with new public transport connections, the provision of Park and Ride and bus services, new pedestrian and cycle routes and released capacity on the existing network.
- 2.19 The estimated construction cost of the road through all sections of the ELE would be £74.5m, based on 2013 prices. This includes a 45% risk contingency ('optimism bias') to reflect a number of currently unknown factors such as site conditions, detailed design, agreed procurement route, and phasing. First phase works relating to the Northern Quadrant will however have a greater degree of cost certainty based on the more detailed survey and designs that have been undertaken to date and which have been agreed between the developers and the Council's consultant advisors.
- 2.20 The next phase of more detailed work to resolve other less certain matters and move towards a planning application for the full length of the road has now started, drawing on a first tranche of a £1.31m package of funding from METRO. This work will aim to create conditions of certainty in which funding can be levered in to deliver the scheme, stakeholders' agreement to the delivery principles secured and a planning case for any land assembly put in place.

- 2.21 Executive Board also previously noted the potential for a number of public funding sources to be accessed to assist in meeting the delivery and construction costs of the ELOR. It is possible that these could be in the form of either grant with no borrowing costs attached (such as through the West Yorkshire Transport Fund) or through loans, which would incur borrowing costs that would need to be factored into the overall project budget (such as through the HCA's Local Infrastructure Fund). It is currently the case that none of these potential sources of funding to the project can be confirmed.
- 2.22 In discussions between the Council and land owners/developers with interests in the ELE, it has been recognised that there will need to be developer contributions to the construction of ELOR, to be secured through the relevant planning consents and associated planning obligations.
- 2.23 At Thorpe Park the particular mix of uses reflected in the planning permission represents 'enabling development' contributing to the costs of providing road infrastructure to a specification that would facilitate the future delivery of ELOR through this particular site. It has therefore been agreed that the developer of Thorpe Park will deliver a dual carriageway between Manston Lane and the M1 using its own funds or borrowing. The developer will also reserve land on the site to enable the road to be widened once connected to the ELOR, to meet strategic traffic demands through the site, as well as continuing to service the new development.
- 2.24 In the four other sections of the ELE – Red Hall, Northern Quadrant, Middle Quadrant and Southern Quadrant – the scale of the infrastructure requirements are such that the funding or delivery of the relevant section of ELOR solely by developers in advance of or in immediate tandem with the delivery of housing is likely to render the proposed schemes unviable due to the longer term costs of committing finance or of borrowing to fund major road infrastructure up-front.
- 2.25 It is therefore desirable to establish principles and consensus with all parties that can underpin an agreed means of calculating the private sector financial contributions towards building ELOR through each of the three sections of the ELE and a rationale for when these should be paid.
- 2.26 In taking forward this work there is clear prospect that the Council may need to take a more direct role, not simply co-ordinating the delivery of this critical infrastructure but leading its procurement and delivery.
- 2.27 The main body of this report below sets out the emerging principles concerning the approach to developer contributions to ELOR and the Council's continued role.

3 Main issues

- 3.1 The Council's stated approach to securing delivery of ELOR at the earliest date possible is for it to take a leading role in co-ordinating its provision, including investigating and seeking to obtain funding from both the public and private sectors, rather than waiting for the receipts from housing sales.

- 3.2 Any mechanism adopted to obtain private funding towards ELOR should ensure that there is an equitable approach to working with all potential developers and a consistent approach to viability. However the differing stages of planning and readiness for development in each section of the allocation and the current uncertainty with regard to public funding availability mean that in practice there are challenges in delivering the road in a single construction phase and it is impracticable at this stage to identify a fixed level of financial contribution from each development.
- 3.3 It is considered to be unrealistic to aim to deliver the whole of ELOR in advance of any housing development in ELE – such an approach could leave a period of some years before any housing or infrastructure would be started in some sections of the allocation and therefore inhibit housing delivery.
- 3.4 The appropriate amount and timing of developer contributions has already been considered as part of the Local Planning Authority's discussions with the Northern Quadrant consortium in relation to the current planning application for 2,000 new homes. These have allowed exploration of how developer contributions might work to enable the early delivery of housing and a first section of ELOR to be brought forward, without adverse impact on the highway network and to consider how any agreed principles might be transferred to other sections of ELOR and the related housing developments that may come forward later. Alongside this, work has been continuing to establish public funding sources for the project.
- 3.5 Each of these issues is explored in the following sections.

Northern Quadrant and Developer Contributions to ELOR

- 3.6 Although forming only part of the ELE allocation the Northern Quadrant is a significant development proposition in its own right. The scheme would be one of the largest single residential developments in the City Region making a major and potentially early contribution to housing growth targets in the Draft Core Strategy. These benefits could be significantly delayed if housing could not be built until ELOR were to be fully constructed.
- 3.7 As part of the outline planning application the consortium has considered how the proposed development can ensure the delivery of ELOR in a timely and viable way and has made a proposal on how this can be achieved.
- 3.8 Its proposition is to construct up front and at its own cost, two new roundabouts. The first on the A58 Wetherby Road, would provide for the permanent junction with ELOR and for access into the development site. The second, on the A64, would provide for an interim junction with ELOR and for access into the development site, but would need to be reconfigured and extended further once a connection into the Middle Quadrant section of ELOR is required. From these early works the consortium indicates housing development would be able to progress at a peak rate of up to 200 new homes a year, to a quantum to be

agreed by the Local Planning Authority before works to connect the two roundabouts with linking sections of ELOR would commence. The costs of these works would represent the developer's first contribution to ELOR, up-front.

- 3.9 A regular payment from the developer to the Council would be agreed based on each house sold and the estimated costs of constructing ELOR through the site. Payments to the Council would only commence once the cumulative notional value of the contributions required from the first homes built exceeded the value of the up-front works. At this point actual payments would be made to the Council on the basis to be agreed by the Local Planning Authority.
- 3.10 Alongside this, the Council would continue to seek public sector funding towards early delivery of this section of the road, with the consortium providing any land in its ownership to enable this. The Council would also take responsibility for finalising designs, making the financial business case, procuring and delivering this section of ELOR and would use the developer's contributions to pay back the capital and borrowing costs of any loans obtained to deliver the works on the site.
- 3.11 Currently it is proposed by the consortium that if by the sale of the 800th house (approximately 5 years into the consortium's indicative build programme, assuming a build-up to peak sales rates) the Council did not have sufficient public funding in place it could request the consortium to pay sufficient funds for the construction of the section of ELOR between the A58 and Skeltons Lane roundabout.
- 3.12 It is further proposed by the consortium that if by the sale of the 1000th house (approximately 1 year later in the indicative build programme), the Council did not have sufficient public funding in place it could request the consortium to pay sufficient funds to the Council for the construction of the section of ELOR between the Skeltons Lane roundabout and A64 roundabout, thereby completing the Northern Quadrant section of ELOR.
- 3.13 These propositions, if agreed by City Plans Panel, would form part of the s106 agreement for the Northern Quadrant.
- 3.14 Importantly, this approach will rely on the developer demonstrating to the Local Planning Authority's satisfaction that the scale of development proposed before the 'trigger dates' for full developer funding of ELOR are met can be accommodated without detrimental impact on the performance of the existing highway network, with appropriate improvements to it as reflected in any planning permission.
- 3.15 The City Plans Panel will consider whether the proposed 'trigger points' for lump sum ELOR payments in the developer's programme are appropriate and acceptable together with how the regular and lump sum payment of ELOR contributions should be phased in relation to the wider package of planning obligations to fund all of the infrastructure associated with the development taking into account its overall viability.

- 3.16 This approach would require an agreement to the overall quantum, phasing and prioritisation of all s106 payments related to the development, including the developer contributions to ELOR.
- 3.17 The quantum of the developer's ELOR contributions would be subject to agreement on the cost estimates for construction of this section of the road (including the effect of inflation to anticipated build date and any optimism bias), the number of homes to be developed and a viability appraisal of the scheme to ensure the full package of s106 obligations could be funded by the proposed development.
- 3.18 The consortium has proposed that if any grant or loan from the public sector can be obtained and the financial benefits of this (after accounting for any borrowing costs) result in an excess of funding above the amount which is initially anticipated when calculating the ELOR contributions - resulting in more private contributions than are needed to provide the Northern Quadrant section of ELOR - the Council would spend the excess receipts on enhancing infrastructure associated with the development (which could for example include funding additional Affordable Housing). In this way the overall value of all s106 and ELOR contributions paid to the Council would remain the same as agreed at the outset.
- 3.19 Executive Board is therefore requested to note the principle that the delivery of ELOR should be prioritised in the s106 package for the Northern Quadrant together with the phasing of other s106 obligations and payments to be determined by Plans Panel.
- 3.20 For any land not available for construction of the Northern Quadrant section of ELOR, the consortium has stated that it will indemnify the Council for any reasonable costs incurred in acquiring the land. If the Council is to use its CPO powers it is important that the indemnity extends to all compensation and costs properly incurred and which arise as a direct consequence of the exercise of such powers. Efforts to assemble land to secure the route of ELOR through the Northern Quadrant and thus enable the full build-out of this part of the ELE have to date been led by the private sector development interests within the consortium.
- 3.21 Executive Board has previously noted the potential that the acquisition of all necessary land interests required for the delivery of ELOR may require compulsory acquisition (CPO). The success of any CPO action would be dependent on demonstrating a compelling case in the public interest in respect of funding and viability, clarity in the acquisition powers, securing planning permission for the road and being clear on the technical case for the delivery of the road, either in whole or in discrete sections.
- 3.22 At this stage the Council has not held any formal discussions with landowners in the ELE with regard to it acquiring any land for ELOR. As the use of CPO is intended to be a 'last resort' measure, any case for CPO will need to demonstrate that all reasonable efforts have been employed to acquire necessary land for the road by negotiation. The need for such an approach in the Northern Quadrant or in other sections of the ELE would be the subject of a separate report to Executive Board if and when this requires consideration.

- 3.23 Whilst the Northern Quadrant consortium's proposed approach does not guarantee immediate delivery of this section of ELOR up front, it does mean that the Council can take control of delivering it. This would then be subject to the completion of detailed design of the road by the Council (together with the discharge of any reserved matters associated with the consortium's outline planning approval, on the assumption this is granted), full land assembly for the route and either appropriate public funding becoming available to supplement the agreed developer contributions or the developer's lump sum payments being made in accordance with an agreed programme (whichever is the earlier).
- 3.24 This approach also requires the Council to accept the full design, procurement and construction responsibility for ELOR through this section of the allocation, as well as the responsibility for any outstanding land assembly required to facilitate its route.

Developer Contributions to Future ELOR Sections

- 3.25 Developer contributions based on a cost estimate for each section of ELOR and the anticipated quantum of housing development for each section is a pragmatic and potentially attractive option for funding ELOR.
- 3.26 In order to ensure an equitable position for all landowners/developers across the ELE there is a case for adopting a consistent approach which means that the Red Hall, Middle Quadrant and Southern Quadrant sections of ELOR are funded in a similar way to that set out for the Northern Quadrant, taking into account viability and the need for each development proposal to contribute to the provision of other essential local infrastructure.
- 3.27 It would be necessary to factor in the potential for changes in cost estimate for future sections of ELOR as more detailed design work proceeds and the impact of inflation to build date becomes apparent.
- 3.28 One additional complication when it comes to the funding of the later stages of ELOR is the fact that from April 2015 the use of section 106 obligations to deliver infrastructure of this nature is due to be limited as the latest iteration of the Community Infrastructure Levy regulations take effect. There are a number of aspects to this. One is that the CIL charge is mandatory and non-negotiable whereas section 106 contributions are negotiable. Guidance in the draft National Planning Policy Guidance indicates that where an applicant is able to demonstrate to the satisfaction of the LPA that planning obligations would cause the development to be unviable the LPA should be flexible in seeking such planning obligations. In practice, any S106 payments will need to be levied from what is left after the payment of CIL and other costs of development, subject to viability.
- 3.29 Members will recall that the CIL rate agreed for this area in the Draft Charging Schedule is proposed at a modest level to reflect the substantial site development and infrastructure costs that the ELE is expected to meet (including ELOR).
- 3.30 A further issue is that the CIL regulations place a limit on the number (5) of obligations that an authority may collect towards an infrastructure project of a type that may otherwise be funded through CIL. This is from a base date of 6th April

2010. Given that the ELE and ELOR cover multiple land interests and may be brought forward by numerous developers over an extended period of time there are clearly difficulties in taking the suggested approach forward in a way that does not breach these restrictions. Nevertheless, at the present time, the use of S106 to secure developer contributions to repay the costs of ELOR provides a relatively straight forward and equitable mechanism and remains the preferred approach. Further legal advice is therefore being sought to consider the identified issues and members will be advised should this suggest a need to modify the approach. This will be the subject of a further report to Executive Board.

Public Funding Scenarios & Impact on Developer Contributions

- 3.31 The quantum of developer contributions applied to any section of the ELE may vary considerably depending upon the level of public funding that can be secured, the requirements on timescale for spend, the terms on which such funding would be made available (grant or loan) and the phasing of the ELOR build programme.
- 3.32 Whilst there are no secured public funding sources at this time, in his Autumn Statement on 4th December the Chancellor of the Exchequer announced that Leeds' April 2013 application to the Homes & Communities Agency's Local Infrastructure Fund would be moved from reserve status into active consideration for funding. The original application was for £15.2m of funds towards the costs of ELOR, spread across each of the sections, to unlock the significant growth potential of the ELE. It is possible that this could be made available in some combination of loans or equity stake.
- 3.33 A process of clarification and due diligence is now underway with the HCA assessing the various aspects of the bid, working with the Council and the relevant development interests. It is expected that the scope for funding and the means through which it will be made available will be assessed and confirmed by the end of the current financial year, with an expectation from government of significant spend before the end of the current Comprehensive Spending Review period (March 2015) and a start to the delivery of housing outputs.
- 3.34 Over the Course of 2014/15 it is also anticipated that further clarity will be obtained in respect of the potential to access grant funding through the West Yorkshire Transport Fund and/or the Local Growth Fund (a separate report to Executive Board sets out the position on the draft Leeds City Region Strategic Economic Plan that will form the application for the latter).
- 3.35 The Council has undertaken initial financial modelling to assess how the application of a range of assumptions around differing levels and types of funding from these sources could give rise to different levels of developer contribution in each section of the ELE, once viability and other planning obligations are taken into account. This work will be subject to further discussion with developers and land interests in the area to include more detailed sensitivity testing and

adjustment as development programmes become clear, cost estimates are refined and the scale and type of public funding clarified.

- 3.36 It should be noted that the Thorpe Park section of ELOR would only require developer contributions from the ELE for its future widening to accommodate strategic traffic – the financial modelling assumes a pro-rata contribution to this future work from each development.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The East Leeds Regeneration Board, a sub-group of the Housing & Regeneration City Priority Board has had extensive discussions about the ELOR and ELE issues since its establishment in January 2012.
- 4.1.2 A Member from each East Leeds Ward has a seat on the East Leeds Regeneration Board, alongside a seat for representation from each of the Conservative and Liberal Democrat Groups. The Board is chaired by the Executive Member for Neighbourhoods, Planning & Support Services.
- 4.1.3 Members of the Board have expressed clear views that the ELOR should be provided as quickly as possible and there is a preference for the ELOR to be provided in its entirety in advance of any development in the ELE and Thorpe Park.
- 4.1.4 The Council has contacted all landowners in the ELE to discuss the issues raised in this report. Dialogue will be maintained to inform the financial modelling and to seek agreement on the approach to developer contributions as well as to facilitate the detailed site surveys that will support design development work.
- 4.1.5 A Consultative Forum has been set up as to assist consultation on the Northern Quadrant planning application and is currently chaired by Cllr Pauleen Grahame (Crossgates and Whinmoor Ward). The forum comprises representatives from local groups, including the Parish Councils, Ward Members from each of the wards directly affected by the proposals and members of the developer's team and has met seven times. The Council has also organised 'drop-in' events in December 2012 and September 2013 to provide further opportunities for local people to obtain information about and comment on the proposals for the Northern Quadrant.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equality Impact Screening was completed in relation to the feasibility stage of the ELOR project and has been updated to consider the latest position. The equality and diversity/cohesion and integration issues identified are very high level

and the revised screening indicates that there is no need for a full assessment at this stage. This will be reviewed, refined and re-screened at each stage of the project and a full assessment will be undertaken in due course.

4.3 Council policies and City Priorities

- 4.3.1 The ELE and ELOR are included within the allocations and policies of the Unitary Development Plan. The ELE will be retained as a housing allocation in the Local Development Framework.
- 4.3.2 The Vision for Leeds to 2030 states that the city will be prosperous and sustainable, with a strong local economy driving sustainable economic growth and sufficient housing to meet the needs of the community. The resolution of issues set out in this report will make a significant contribution to this vision.
- 4.3.3 The Best Council Plan 2013-17 sets out the ambition for Leeds to be the best city in the UK, with an economy that is prosperous and sustainable so all our communities are successful. The work to deliver the East Leeds Extension relates strongly to the best council objectives to ensure high quality public services and to promote sustainable and inclusive economic growth. Progressing the East Leeds Extension is set as a priority for 2013/14.
- 4.3.4 The approaches set out in this report will also assist in delivering the Council's Child Friendly City aspirations through a co-ordinated approach to the delivery of critical infrastructure that will enable place-making and the provision of new homes, open spaces and schools, amongst other community benefits.

4.4 Resources and value for money

- 4.4.1 The ability to deliver the full infrastructure requirements to support the East Leeds Extension will require financial contributions from both public and private sectors. Private contributions will be secured through the direct delivery of any relevant planning approvals, s106 agreements secured in relation to these and in due course the Community Infrastructure Levy.
- 4.4.2 At this stage the implications for Council finances cannot be properly quantified. Further clarity will be achieved over the coming months on the various public funding opportunities set out in this report and further development of the financial modelling in relation to ELOR will establish the implications for the Council in how funding will need to be managed, including cash flow and borrowing exposure. More detail on any related risks will be reported back to Executive Board.
- 4.4.3 If the New Homes Bonus scheme continues for the duration of the development of the Northern Quadrant site, based on the proposed 2000 homes being an average Council Tax of Band D, this could give rise to a total NHB of £18m over a 20 year period. With the same assumption of an average Band D rate for all 2000 properties, at 2013 Council Tax levels the Council could expect a total increase in

Council Tax income of around £2.25m per annum upon completion of the development.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Specific issues relating to compulsory purchase and the Community Infrastructure Levy (CIL) are raised in the main body of this report. There is no proposal currently in place for use of Compulsory Purchase Orders. Use of such statutory powers will be subject to a report to Executive Board for separate consideration at such time these may be required. Further advice is to be sought in respect of the impact of CIL.
- 4.5.2 In considering a mechanism for calculating the amount of developer contributions for ELOR, the Council must have regard to the European Commission's rules as to the provision of State Aid. Provided that all developers and landowners are treated equitably, State Aid should not arise, but the situation will be kept under review and legal advice taken as necessary.
- 4.5.3 Statutory blight can arise in circumstances where land is shown on plans approved by resolution of the Council as land comprised in the site of a proposed highway. However, there is only an indicative preferred alignment and Executive Board is not being asked to approve an alignment at this stage.
- 4.5.4 The current stage of ELOR project development (scheme validation, desk top and site surveys) will provide further detail to indicate any implications for third party land acquisitions and statutory processes that may need to be invoked to enable scheme delivery, subject to further consideration by Executive Board.

4.6 Risk Management

- 4.6.1 The ELOR project has developed an initial risk register setting out the main areas of uncertainty relating to policy, technical, financial, statutory and programme issues. This will be adopted by the Council and further developed and populated as the current stage of work progresses.
- 4.6.2 The principle risks and current approach to mitigation of these are as follows:
 - *That agreement cannot be reached with land owners on the alignment of ELOR or the land required to enable its construction* – the Council has undertaken feasibility work on the scope and alignment of ELOR and shared this with developers and land owners. Further work is underway to progress the next stages of the project to validate the feasibility assumptions, complete desk top studies (ground conditions, environmental assessments) and to confirm the design and likely land requirements. The Northern Quadrant alignment of ELOR is included in the consortium's development proposals and will be agreed through determination of the current planning application;
 - *That developers' contributions for the Northern Quadrant are not sufficient to cover the costs of constructing ELOR* – this report has set out an approach whereby developer contributions could be prioritised in a package of planning

obligations, once viability has been taken into account, with the full amount to be provided upon completion of an agreed quantum of development;

- *That the cost of delivering ELOR exceeds the available funds* – the Council is currently pursuing public funding sources alongside seeking to establish a means through which developer contributions can be quantified and secured, as outlined in this report. The estimated costs of ELOR will continue to be refined as more detailed design and planning work progresses;
- *That the provision of ELOR and other critical infrastructure does not keep pace with housing development in the area* – the Council will continue to pursue public funding to deliver the road to as early a programme as possible. The timing of housing development in relation to the delivery of the road, other infrastructure and community needs in each section of the ELE will be subject to detailed assessment through individual planning applications that may come forward to ensure development proceeds in a sustainable way;
- *That unknown environmental and ground conditions delay delivery or add to the cost of ELOR* – detailed site investigations are programmed as part of the design and planning process, that will provide more clarity on the mitigation required;
- *That objections arise causing significant delay or inability to deliver the scheme* – ELE and the requirement for ELOR have been allocated in the UDP since 2001. Substantial consultation has been undertaken on the Northern Quadrant proposals and engagement with local people will continue on all aspects of the ELOR scheme as it proceeds.

4.6.3 The officer Project Board established to oversee matters relating to the ELE and ELOR and chaired by the Director of City Development will receive regular updates on these risks.

5 Conclusions

- 5.1 The East Leeds Extension is a large area of allocated housing development land that provides a major opportunity to contribute to the city's housing growth needs. It also represents an area of place making opportunity where key Best City ambitions can be designed in to plans and proposals from an early stage.
- 5.2 The ELOR is a critical element of transport infrastructure that will be required to support development and contribute to strategic objectives for travel in and around this part of the city. However the cost and scale of this infrastructure requires a flexible approach to securing the funding and finance that will enable its delivery, with a solution required that utilises both public and private sector resources and which is based on principles that recognise the impact of ELOR, all other planning obligations and future Community Infrastructure Levy on viable housing development in the allocation.
- 5.3 In discussions relating to the first planning application at the Northern Quadrant a proposal has been made by the developer to deliver early ELOR junction works

and to subsequently fund the delivery of ELOR in this part of the allocation, through phased payments to the Council related to progress in the construction of new homes. The responsibility for delivery of ELOR through the Northern Quadrant would be assumed by the Council, which would also secure statutory approvals and continue to seek public funding to deliver the road as early as possible. The developer would indemnify the Council for any costs associated with completing land assembly to enable this.

- 5.4 The mechanism for securing contributions and the phasing of these will need to be approved by City Plans Panel in determining the planning application, but Executive Board is asked to agree the principles set out in this report so that the Council's position is clear, there is a basis on which to assess any further detailed financial implications and a basis on which to continue discussions about the way ELOR will be delivered with other development and land interests in the East Leeds Extension allocation.

6 Recommendations

Executive Board is asked to note the position reached in discussions with the Northern Quadrant consortium as set out in the report and to:

- i. Support the principle that (subject to the grant of planning permission) the delivery of the East Leeds Orbital Road between the A58 and A64 roundabouts should be funded by developer contributions, to be included in a s106 agreement to be negotiated by the Chief Planning Officer (paragraphs 3.8 – 3.12);
- ii. Approve the principle of direct delivery by the City Council of the East Leeds Orbital Road between the A58 and A64, to be led by the Chief Highways & Transportation Officer, subject to securing the necessary statutory consents, the grant of planning permission including the completion of the s106 agreement and the approval of a detailed financial business case (paragraphs 3.10 – 3.12);
- iii. Approve that the Chief Highways & Transportation Officer progresses delivery of the East Leeds Orbital Road between the A58 and A64 on the basis that, should any compulsory purchase of land be required, the s106 agreement negotiated by the Chief Planning Officer will include an indemnity to the Council from the Northern Quadrant consortium for all costs properly incurred in pursuing a CPO (paragraphs 3.20 – 3.22);
- iv. Agree that a further report should be brought back to Executive Board by the Director of City Development, to agree the specific financial implications for the Council as early as possible once the details of the s106 Agreement for the Northern Quadrant have been established;
- v. Approve that the approach set out in recommendations (i) and (ii) above is used as a basis for the Chief Planning Officer to lead discussions with

landowners and developers in the Red Hall, Middle and Southern Quadrants of the East Leeds Extension for establishing developer contributions to the funding of the East Leeds Orbital Road (as set out in paragraphs 3.25 – 3.27), subject to the further legal clarification referred to in paragraph 3.30 of this report;

- vi. Note the due diligence now underway with the Homes and Communities Agency and development interests to secure access to up to £15.2m of support in the form of loans or equity from the government's Local Infrastructure Fund towards the costs of delivering the East Leeds Orbital Road to support the development of housing in the East Leeds Extension (paragraphs 3.32 – 3.33).

7 Background documents¹

7.1 None.

¹ 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.