



**Report to the Chief Officer (Highways and Transportation)**

**Date: 25 June 2019**

**Subject: East of Otley Relief Road – Ground Investigation**

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary**

**1. Main issues**

- In February 2018, the Council was informed by Homes England (HE) that it had been successful in securing a significant grant of £6.3m as part of the government’s Housing Infrastructure Fund Marginal Viability (HIFMV). The funding will be used to fill the viability gap that would enable for the design, planning and delivery of the major new relief road (East of Otley Relief Road – EORR). In order to construct the road there are significant design challenges that will need to be overcome due to the topography and land stabilisation issues.
- Attached to the council receiving the HIFMV funding are 19 conditions. A number of which relate to achieving key milestones by certain dates. One of these relates to providing evidence that intrusive ground investigations have been completed to establish the nature of the ground, any identified contamination/ remediation works required and fundamental to the success of the scheme the alignment and design constraints of EORR.
- The scheme is now at the point on the critical path where the ground investigation surveys need to commence to inform the route and design of EORR. In addition there are legal fees to be approved related to all parties entering into a high level collaboration agreement to equalize the costs of the ground investigation works.
- This report therefore explains the reasons for the expenditure, details the costs and requests authority to spend.

**2. Best Council Plan Implications** (click [here](#) for the latest version of the Best Council Plan)

- The delivery of this mixed use site including 35% affordable homes underpins the Council's ambition for Leeds as a Strong Economy and a Compassionate City
- The adopted Core Strategy, UDP and highly advanced SAP play a key strategic role in taking forward the spatial and land use elements of Best Council Plan. 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. In particular, they support the Best Council Plan priorities on transport and infrastructure, low carbon, good growth, health and wellbeing and resilient communities

### **3. Resource Implications**

- The proposals in this report can be delivered within existing resources utilising the current Ground Investigation framework contract.

### **Recommendations**

- a) This report recommends that authority to spend £160,000.00 is given for the commissioning of essential ground investigations on the subject site for the development of the East of Otley Relief Road and subsequent phases.
- b) The report also asks for authority to spend £16,129 for the associated legal fees in drawing up an all-party collaboration agreement to equalize the costs of the ground investigation works across the various developers / landowners

### **1. Purpose of this report**

- 1.1 The purpose of this report is to seek authority to spend from the capital program to commission essential ground investigations and associated legal fees on the subject site for the development of the East of Otley Relief Road

### **2. Background information**

- 2.1 The land at the East of Otley is a major site that has been allocated for residential and employment development since the adoption of the 2006 Unitary Development Plan. The allocation has been carried forward into the Core Strategy and Site Allocation Plan (SAP).
- 2.2 The 74 acre allocation is for a mixed use development which includes a new 1.4km East of Otley Relief Road (EORR) which will not only service the development and directly bring forward the delivery of the following development outcomes, it will also alleviate congestion in the centre of Otley. The allocation comprises:
  - 550 dwellings
  - EORR
  - A new primary school
  - 5 hectares of employment land
  - Public Open Space
  - Relocation and provision of Sports Pitches

### **3. Main issues**

- 3.1 In order to satisfy one of the critical path key milestones in the HIF approval process, and to maintain the progression of the site allocation, it is important that momentum is maintained. For this to happen essential ground investigations (GI) need to commence as soon as possible.
- 3.2 A cost for the GI works has been established through the Council's current GI Framework Contract and subject to the funding approval in this report can be instructed immediately.
- 3.3 Initially the ground investigation contractor will visit site to check access and produce an information pack showing proposed access routes and types of plant. This information will be used to arrange access with the landowners and stakeholders. It is anticipated that with the necessary lead in time of 6 weeks that the GI would start on site in July 2019 and be completed by August 2019. Laboratory testing and report writing would take a further six weeks with the GI Contractor issuing their Factual Report in October. LCC will procure the GI Contractor using the existing framework and supervise the investigation, schedule testing and check the factual report
- 3.4 The results of the GI work will inform the outline design of the EORR including the route alignment, remediation and stabilisation requirements resulting in a preferred option which can be costed.
- 3.5 Following this, all parties will consider how their respective land interests comprised within the site can be coordinated and applied to facilitate delivery of the EORR. This will require the development of a masterplan for the site, and an acknowledgement of the need to equalize costs and to consider a means of equalising land values across their respective land interests to facilitate EORR and the site scheme delivery.
- 3.6 It is expected the Council will sign up to the HIF grant determination agreement and the conditions for drawing down on the funding, the funding amounts would be paid directly to the Council in 6 monthly instalments through s31 of the Local Government Act. The expenditure amounts incurred in 5.6 below would then be paid back into the capital programme.
- 3.7 To further reduce the risk on the GI costs, the three main land/option holders for the site (including Leeds City Council) have entered into an agreement to share the GI costs proportionate to their holding should the HIF bid fail.
- 3.8 Additionally without HIF, other costs associated with the design and construction costs of EORR (limited to the costs of delivering EORR) could be secured via a planning obligation through either a S106 agreement(s) or S278 agreement(s) attached to the outline planning approval for the mixed use development. The mechanism of payment would be derived from the costs of EORR divided by the number of dwellings with planning approval (roof tax).

## **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 agents in working up the HIF bid and the due diligence exercise that followed.

- 4.1.2 Further consultation will take place with the Executive Member for Climate Change, Transport and Sustainable Development, ward members and other local stakeholders as further details are developed around the masterplan for the site in discussion with the developers and other landowners

## **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 There are no EDC&I impacts associated with this report and works

## **4.3 Council policies and the Best Council Plan**

- 4.3.1 The proposals within this report are for ground investigation works to inform the outline proposals to bring forward a residential and employment site to the east of Otley. The delivery of this mixed use site including 35% affordable homes underpins the Council's ambition for Leeds as a Strong Economy and a Compassionate City.

### Climate Emergency

- 4.3.2 The adopted Core Strategy, UDP and highly advanced SAP play a key strategic role in taking forward the spatial and land use elements of Best Council Plan. 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. In particular, they support the Best Council Plan priorities on transport and infrastructure, low carbon, good growth, health and wellbeing and resilient communities.
- 4.3.3 The outline proposals will be developed in line with the Green Streets principles and will also promote cycling and walking with segregated cycle routes along the new road connecting to existing cycle networks and pedestrian links into the green belt land to the outside of the proposal.
- 4.3.4 Whilst there is no direct impact on public transport, the congestion relieving benefit that the road will bring on the centre of Otley should improve bus access and also be beneficial to air quality in the congested town centre.

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

- 4.4.1 The contractor selected to undertake the GI work is the most economically advantageous provider from within the Council's existing GI Framework Contract.
- 4.4.2 The total cost for the Ground Investigation is £160,000.00 (consisting of £130,000.00 works and £30,000.00 fees).
- 4.4.3 In addition to the above, the associated legal fees in drawing up an all-party collaboration agreement to equalize the costs of the ground investigation works across the various developers / landowners is £16,129
- 4.4.4 The capital funding and cash flow is shown in the table below.

Previous total Authority to Spend on this scheme	TOTAL £000's	TO MARCH 2018 £000's	FORECAST				
			2018/19 £000's	2019/20 £000's	2020/21 £000's	2021/22 £000's	2022 on £000's
LAND (1)	0.0						
CONSTRUCTION (3)	0.0						
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	0.0						
OTHER COSTS (7)	0.0						
<b>TOTALS</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
Authority to Spend required for this Approval	TOTAL £000's	TO MARCH 2018 £000's	FORECAST				
			2018/19 £000's	2019/20 £000's	2020/21 £000's	2021/22 £000's	2022 on £000's
LAND (1)	0.0						
CONSTRUCTION (3)	130.0		30.0	100.0			
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	30.0		6.0	24.0			
OTHER COSTS - Legal (7)	16.1		16.1				
<b>TOTALS</b>	<b>176.1</b>	<b>0.0</b>	<b>52.1</b>	<b>124.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
Total overall Funding (As per latest Capital Programme)	TOTAL £000's	TO MARCH 2018 £000's	FORECAST				
			2018/19 £000's	2019/20 £000's	2020/21 £000's	2021/22 £000's	2022 on £000's
LCC Supported Borrowing	145.0		52.1	92.9			
Revenue Contribution	0.0						
Capital Receipt	0.0						
Insurance Receipt	0.0						
Lottery	0.0						
Gifts / Bequests / Trusts	0.0						
European Grant	0.0						
Health Authority	0.0						
School Fundraising	0.0						
Private Sector	0.0						
Section 106 / 278	0.0						
Government Grant	0.0						
SCE ( C )	0.0						
SCE ( R )	0.0						
Departmental USB	0.0						
Corporate USB	0.0						
Housing Infrastructure Fund	100.0			100.0			
<b>Total Funding</b>	<b>245.0</b>	<b>0.0</b>	<b>52.1</b>	<b>192.9</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>Balance / Shortfall =</b>	<b>68.9</b>	<b>0.0</b>	<b>0.0</b>	<b>68.9</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

#### 4.5 Legal implications, access to information, and call-in

- 4.5.1 Leeds-based external legal advisors have been appointed by the Council to provide a joined up approach to the range of legal matters relating to the site, including the disposal of the Council's land, planning co-ordination, commercial and collaboration agreements that may be required to assure delivery and manage risks to the Council.
- 4.5.2 As part of the detailed consideration of the proposals outlined in this report further regard will need to be given to any potential State Aid implication to ensure any final proposal brought forward is compliant with current legislation.
- 4.5.3 If the Council signs up to the HIF grant determination agreement and the conditions for drawing down on the funding, the monies would be paid directly to the Council in 6 monthly instalments through s31 of the Local Government Act. The Council would be responsible for spending any funding received in accordance with all the conditions.

## **4.6 Risk management**

- 4.6.1 The cost estimates for the GI works are within the current amount injected into the capital programme for scheme development.
- 4.6.2 All these costs will be fully rechargeable to the HIF grant once the agreement is signed.
- 4.6.3 In order to further minimise this risk, the three main land/option holders have entered into an agreement to fund the GI work should the HIF bid fail proportionate to their holdings.

## **5. Conclusions**

- 5.1 One of the key milestones in the conditions attached to the HIF funding agreement is that intrusive ground investigations have been completed to establish the nature of the ground.
- 5.2 A preferred Contractor has been identified using the Council's existing GI Framework Contract who is currently in a position to commence, subject to the approval of funding.

## **6. Recommendations**

- 6.1 This report recommends that authority to spend £160,000.00 is given for the commissioning of essential ground investigations on the subject site for the development of the East of Otley Relief Road and subsequent phases.
- 6.2 The report also asks for authority to spend £16,129 for the associated legal fees in drawing up an all-party collaboration agreement to equalize the costs of the ground investigation works across the various developers / landowners

## **7. Background documents<sup>1</sup>**

- 7.1 None.
- 7.2

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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.