

East Leeds Extension – East Leeds Orbital Route Roof Tax Confirmation

Date: 30th June 2021

Report of: Head of Regeneration

Report to: Director of City Development

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the City's and Council's ambitions

- The East Leeds Orbital Route (ELOR) is integral to the development of the East Leeds Extension (ELE), a major strategic growth area for 5,000 new homes. Its delivery relates to the Best Council Plan ambition for a strong economy and compassionate city and for delivery of good quality, affordable homes, well cared for places and a well-planned city which is easy to move around. The ELOR and ELE will also assist in delivering the objectives of the Inclusive Growth Strategy for 21st Century Infrastructure, to support communities, build a child friendly city, deliver the better lives programme, enable positive public health outcomes, and ensure sustainable development.
- Executive Board has approved a series of measures since 2013 to enable the Council to take a leading role in co-ordinating the ELOR design and construction as part of a wider East Leeds Transport Package. This included obtaining a £90m grant from the WYPTF, and borrowing to cover the remaining ELOR cost.
- In accordance with the ELE's planning policy framework, Executive Board approved on 21st June 2017 the principle of setting a roof tax to meet the costs of the Council's borrowing. The roof tax model has now been finalised, setting out the amount due from each ELE quadrant. ELOR costs and the WYPTF grant are attributed to each quadrant pro rata. The model output is a flat rate roof tax per dwelling based on the planning approvals to be secured and timescales for housing completions. The headline figures and model inputs are included in a confidential appendix.
- The model outputs have been shared with the relevant housebuilders and developer consortia, with no comments received back which require further consideration or clarification. The internal consistency of the model has also been approved by external auditors. The roof tax figures can therefore now be confirmed as appropriate and final, and be included within S106 agreements as individual ELE planning permissions are granted, except for Red Hall which will instead provide a contribution from the LCC capital receipt.

Recommendations

- a) For the Director of City Development to confirm and approve the ELOR roof tax rates for the four quadrants of the ELE, notwithstanding that the detailed financial information should be designated as exempt from publication when considered against the public interest test. These roof tax rates will be included within S106 Agreements for future planning permissions within the

sites, except for Red Hall which will instead have the required amount as calculated by the model taken as a direct contribution from the LCC capital receipt

Why is the proposal being put forward?

- 1 Executive Board approved on 21st June 2017 the principle of setting a roof tax to meet the costs of the Council's borrowing in relation to delivering the ELOR. The roof tax model has been in development for a number of months, and has now been finalised. It has been shared with the relevant housebuilders and developers with no adverse comments or queries. It has also been approved as internally consistent by external auditors.
- 2 It is therefore recommended to approve and freeze the resulting figures, to be included within future S106 agreements as individual ELE planning permissions are granted, except for Red Hall which will instead provide a contribution from the LCC capital receipt.
- 3 This is a significant and complex project that has entailed the planning and construction of the largest new transport infrastructure scheme for the City for many decades, and which will play a critical role in unlocking development land within the ELE. To date the Council has:
 - Secured public funding for the capital costs of the scheme through the West Yorkshire Plus Transport Fund (WYPTF) and committed to significant public borrowing to ensure the scheme is financed at the point of delivery;
 - Facilitated the scheme through assembly of multiple land interests, including through successful implementation of a Compulsory Purchase Order and Side Roads Order, providing a high level of certainty in the forward planning of development in the area;
 - Obtained the necessary planning approvals for the scheme, procured and appointed contractors for the delivery of related works.
- 4 The scheme is currently running to programme and projected to be completed and open in its entirety in May 2022.
- 5 The ELOR is one of three elements of a wider and linked East Leeds Transport Package:
 - a) Existing A6120 Outer Ring Road/arterial route junction upgrades to the west of the ELE;
 - b) The East Leeds Orbital Route;
 - c) Subsequent changes and environmental improvements to the 'bypassed' section of the existing A6120 Outer Ring Road through East Leeds.
- 6 The East Leeds Transport Package required a business case that included third party developer contributions to the ELOR part of the project. On this basis it was successful in securing a £90m grant from the WYPTF, a regional programme funded through the Local Growth Deal with government and by contributions from the West Yorkshire Local Authorities.
- 7 A significant part of the WYTF grant has been apportioned to those aspects of the package targeting the required changes to the existing highway network and which therefore require 100% public funding. The remaining part of the grant has been allocated to the ELOR scheme, in recognition of its dual purpose in providing new strategic highway capacity and unlocking and servicing the ELE development land.
- 8 The Council has acknowledged the commercial and financial challenges associated with a significant up-front funding contribution to the delivery of the ELOR scheme from developers. The scheme business case and Executive Board approvals have provided for the Council to forward fund the third party contributions required over and above the grant contribution, to ensure the

successful and timely delivery of ELOR. To ensure that there was no delay to the ELOR scheme, the Council has taken the position that it will cover these third party contributions in advance of any developer monies being available, through recourse to prudential borrowing.

- 9 ELOR Contributions from development are required in accordance with the planning framework, to meet the costs of the Council's financing of the gap between the allocated WYTF grant and the full costs of the ELOR scheme. These financing costs comprise the principal amount and forecast interest charges on that principal. For the avoidance of doubt there is no call on development to repay any of the WYPTF grant allocated to the scheme.
- 10 The ELOR Contributions have become described as a 'roof tax' insofar as it has been a broadly agreed principle that the payment of the required sums by developers to the Council would be based upon dwelling completions. The ELOR Contributions and the mechanism for their payment for the NQ / MQ / SQ will be set in S106 agreements related to planning approvals in each quadrant, and will be managed, monitored and accounted for through the Local Planning Authority's standard S106 procedures, maintained as a standalone project for these purposes. For Red Hall the ELOR Contribution will be provided from the LCC capital receipt.
- 11 To ensure compliance with this accounting framework, the Council's fiduciary duties, and with State Aid/Subsidy Control legislation on the basis of it being public infrastructure with cost recovery, the Council must ensure there is a clear and reasonable plan for the recovery of the borrowing undertaken and all forecast interest costs. To discharge these responsibilities the Council has developed a Roof Tax Model which provides for the calculation of the ELOR Contributions due from each quadrant of the ELE.
- 12 The model includes a development programme for each ELE quadrant, based on current planning application assumptions of capacity and a production/sales rate consistent with evidence in the SHLAA and monitoring of delivery rates on large sites in the city. The development programme drives the forecast interest accruing on the Council's borrowing, to be included in the overall recovery through the ELOR Contribution.
- 13 The ELOR Costs and the WYPTF grant are attributed to each quadrant as a pro rata share of overall scheme costs, based on the length of the route through that quadrant as a proportion of the overall scheme length, with a share in the costs of each junction between relevant quadrants.
- 14 The model output is a net present value ELOR Contribution per quadrant. This can be translated into a flat rate (non-indexed) roof tax per dwelling based on the planning approvals to be secured and implemented in each quadrant. The model is constructed and operates in such a way to offer certainty and consistency for developers and the Council.
- 15 Two model inputs that are crucial to the roof tax calculation have now been clarified. Following the completion of Phase 1 A6120 Outer Ring Road junction works the allocation of grant to remaining elements of the transport package has now been made and as the ELOR scheme itself is now past the half-way point in its contractual delivery there is a reasonable level of confidence in forecasting the total outturn cost. Additionally the Council has gained confirmation from its independent auditors that the model is materially and arithmetically consistent in the relationship of inputs and outputs and the operation of its linkages, formulae and calculations.
- 16 With the exception of Red Hall, the Contribution will be collected over a period commensurate with build out of the housing within each quadrant, thereby assisting developers with cash flow and viability of the contributing housing developments. The ELOR Contribution will be required as a planning obligation secured in connection with the development of each quadrant and

collected by the payment of a specific sum to the Council for each dwelling completed, to be secured through Section 106 Agreements. These will establish payment periods likely to be based on half year dates for completed properties.

- 17 For Red Hall, the amount of the contribution had not been determined when the site was marketed and therefore the Council invited bids gross of the ELOR Contribution. Payments out of its land receipt from the site's sale will therefore be redirected to cover the site's ELOR Contribution. The timescale for collection is expected to be earlier than for the other quadrants (albeit still subject to gaining planning permission and land sale). An appropriate commitment and/or planning obligation will need to be set prior to the grant of planning permission.

What impact will this proposal have?

Wards affected: Crossgates and Whinmoor, Harewood

Have ward members been consulted? Yes No

- 18 The mechanism for setting the roof tax rates has previously been agreed by Executive Board and is also required by planning policy. The impact this proposal will have, in that it will provide funding from developers to cover the Council's full costs of its borrowing against the delivery of the ELOR, is therefore not new and is not expected to have a specific impact on Leeds citizens. This report is only recommending the final roof tax rates within each quadrant, and to provide confirmation that the roof tax model which generated them is appropriate.

- 19 An Equality Impact Screening is included at Appendix 2.

What consultation and engagement has taken place?

- 20 Consultation has previously been undertaken as part of setting the principle of the roof tax, and Ward Members and Executive Members have been kept informed as to progress on working up the final roof tax figures.
- 21 The Council has been working closely with the housebuilders and developers within the ELE to also keep them informed as to progress. They were formally contacted on 19th April 2021 with details of the final proposed roof tax figures alongside a broad outline of the wider context of how they have been developed. No specific comments have been received in response.

What are the resource implications?

- 22 The exempt Appendix 1 contains the financial resource implications of this decision. This is deemed to be necessarily confidential at this time in the interests of commercial sensitivity relating to land sales and procurement contracts.

What are the legal implications?

- 23 This decision is not liable for Call In.
- 24 The Director of City development has suitable delegated authority to make this decision.
- 25 Legal Services have been closely involved in the development of the roof tax model and have noted the final figures proposed.
- 26 The information in Appendix 1 of this report has been identified as exempt under Access to Information Procedure Rule 10.4(3) because it contains financial information which is commercially sensitive for the Council relating to land sales and procurement contracts. The

information is exempt if and for so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

What are the key risks and how are they being managed?

- 27 The risks of not setting the final roof tax figures at this time are that the ELE planning applications would be delayed, and abortive work may be undertaken as regards to the deliverability of the schemes without sufficient knowledge of the inputs for viability testing. As well as impacting on the housing trajectory, this would also impact on the Council's anticipated capital receipts.
- 28 There is a risk that the roof tax figures proposed would not fully cover the Council's total borrowing required for the ELOR. However, this risk has been fully acknowledged throughout the development of the roof tax model. The need to mitigate this risk has been embedded within the assumptions used within it such that officers are confident that the risk has been brought down to the minimum level which can be achieved at this time.

Does this proposal support the council's three Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

- 29 In setting the roof tax figures, this decision will provide the Council with financial assurance that it will cover its borrowing costs in relation to the delivery of the ELOR, which directly supports the Inclusive growth Strategy in bringing forwards 21st Century Infrastructure.
- 30 In turn, the ELE will unlock the ELE which will also assist in delivering the wider objectives of the Inclusive Growth Strategy to support communities, build a child friendly city, deliver the better lives programme, enable positive public health outcomes, and ensure that development is sustainable.

Options, timescales and measuring success

What other options were considered?

- 31 Executive Board has previously agreed the parameters for establishing an ELOR roof tax in its meeting of June 2017.
- 32 A range of iterations of the model and its inputs and assumptions have been developed over the past year through regular officer working groups including through reporting to the East Leeds Programme Board. These detailed discussions have resulted in the final figures now proposed.
- 33 The model itself has been subject to independent external audit for confirmation that it is materially and arithmetically consistent in the relationship of inputs and outputs and the operation of its linkages, formulae and calculations.

How will success be measured?

- 34 The roof tax figures will be used as the basis for inclusion within S106 agreements as individual ELE planning permissions are determined and granted, except for Red Hall which will instead provide a contribution from the LCC capital receipt.

What is the timetable for implementation?

- 35 The roof tax figures have been formally shared with the relevant housebuilder and developer parties within the ELE. They will be effective immediately that the decision is made.

Appendices

36 Appendix 1 – Exempt under Access to Information Procedure Rule 10.4(3) - East Leeds Extension - East Leeds Orbital Route Roof Tax Confirmation

37 Appendix 2 – Equality, Diversity, Cohesion and Integration Screening

Background papers

38 None.