

# Delivering the East of Otley Relief Road and Housing Allocation

Date: 11<sup>th</sup> December 2024

Report of: Director of City Development

Report to: Executive Board

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## Brief summary

This report provides information on the East of Otley Relief Road (EORR) and housing allocation project with an update on progress since the last Executive Board report in February 2020. Since 2020 the project has endured challenging technical, financial, market and macro-economic conditions all of which has had a negative impact on the deliverability of the scheme. This report sets out the position and an alternative funding approach to support delivery of the relief road and delivery of new housing working with Homes England the Governments National Housing and Regeneration Agency.

The East of Otley (EEO) site has been allocated for residential and employment development since the adoption of the 2006 Unitary Development Plan, carried forward into the Site Allocations Plan (SAP). The site has indicative capacity to deliver 550 homes, 35% of which will be required as Affordable Housing, a primary school and 5ha of employment land. A new highway link, the EORR, is required to serve and unlock this development site, which will have wider benefits in relieving traffic congestion in Otley town centre.

There are significant viability challenges given the site topography and requirement for a relief road. In 2019 the Council was successful in securing a 'recoverable grant' allocation of £6.3m through the government's Housing infrastructure Fund (HIF) to contribute to a large part of the costs for the design, planning and delivery of the EORR. In June 2019 Executive Board noted the approval by the Director of City Development to enter into the grant funding agreement, followed by approval in February 2020 to expend up to £2.2m from the Capital Programme to cover scheme costs, pending the first grant drawdown from HIF.

Since 2021 considerable viability re-appraisal work has been undertaken to reflect significant changes in market conditions and requirements of the site. The HIF funding grant availability period has expired, which alongside worsening viability and challenge to meeting grant funding conditions has means that HIF is no longer the right funding fit for the project.

The launch of the Homes England Strategic Plan in 2023 alongside the opening of its Brownfield, Infrastructure, Land (BIL) Fund has supported a shift in the funding landscape towards a more collaborative approach to unlocking housing growth, which aligns better with the EOO project timescales and provides increased grant support. The EOO site was also included as a priority site in the Strategic Place Partnership agreement between Homes England and West Yorkshire Combined Authority which was signed in 2023.

Since 2023 the Council and Persimmon Homes West Yorkshire (PHWY) have been working with Homes England to develop a business case for BIL funding. This business case is subject to Homes England approvals, which if approved will require the Council to enter into a new Grant Funding Agreement with Homes England to unlock the site and deliver the EORR. To enable this process to move forward the Council and Homes England must formally exit from the existing HIF grant agreement.

## Recommendations

Executive Board is requested to:

- a) Note the changes to the project's viability position since 2019, contained within attached Exempt Appendix 1, and approve that the Council requests a mutual withdrawal from the Housing Infrastructure Fund (HIF) Grant Agreement.
- b) Note the positive progress being made with Homes England in relation to the potential for an increase in grant investment through the Brownfield, Infrastructure and Land (BIL) fund and agree in principle that the Council enters into a Grant Funding Agreement with Homes England, with the details of this being delegated to the Director of City Development.
- c) Note the recovery mechanism for Council funds expended through the Capital Programme to date will be via the drawdown of BIL Grant, where eligible under the BIL programme and where directly related to Planning costs, and via the Council's land receipt where related to legal, land, and project co-ordination related expenditure.
- d) Approve that the Council land within the East of Otley (EOO) site be injected into the Capital Receipts Programme and note the receipt to net off associated LCC costs of development of the site aligned to the Homes England funding parameter.
- e) Note the progress made relating to the disposal of the Council's land within the East of Otley allocation, with responsibility for the detailed terms of the land transaction delegated to the Director of City Development.

## What is this report about?

### Background

- 1 The 30ha East of Otley site is a major mixed-use site allocated in the adopted Leeds 2006 UDP Review (site reference H3-3A.30) / E4 (20)), saved and carried forward as an identified site in the adopted Site Allocations Plan (SAP) in the Outer North West Housing Market Characteristic Area (HMCA). The SAP introduces a requirement for a school to be delivered on the site, in addition to the existing UDP policy.
- 2 The site has an indicative capacity of 550 new homes, and in line with planning policy 35% of these are required to be provided as Affordable Housing, which could equate to around 190 homes, offering housing opportunities for residents who may be furthest away from meeting their needs through open market sale or private rented housing. The site will also require development of 5ha of employment land, provision for a new primary school and green space.
- 3 The delivery of the site and associated infrastructure will bring a number of economic, social and environmental benefits for Otley. These include 21<sup>st</sup> century infrastructure to support planned growth as well as the benefits to Otley Town Centre in relieving congestion and reducing overall vehicular traffic levels because of through journeys being re-routed along the EORR as a more efficient and purpose-built highway, which in turn will enable an uplift in the quality of the town centre environment benefiting residents, shoppers and businesses. Development proposals will come forward reflecting the updated policy framework provided by the Core Strategy Selective Review, which has introduced new requirements for residential and employment development to meet higher energy efficiency standards, tighter water consumption standards alongside provision of electric vehicle charging points and the potential to design in renewable energy generation. It is anticipated that there will be immediate improvements to air quality in Otley Town Centre through reduced congestion.
- 4 An integral component of the allocation is the delivery of the East of Otley Relief Road (EORR). The EORR would not only serve the allocated site but would bring wider benefits to Otley as a whole by relieving the impacts of through traffic that currently passes through Kirkgate in Otley Town Centre and the Dyneley Arms crossroads, which contributes to congestion and associated negative environmental, and amenity impacts for residents, businesses and visitors. The delivery of EORR is a major highway scheme that would form part of the strategic highway network and is supported by UDP Review (2006) Policy T20 (3).
- 5 Between July and September 2024, the Ministry of Housing, Communities and Local Government (MHCLG) held a consultation on reforms to the National Policy Planning Framework (NPPF). In the Autumn Budget (30 October 2024), a response to the NPPF consultation was promised by the end of 2024. The reforms proposed would reverse previous changes to the NPPF and strengthen other areas to deliver the homes the country needs. These reforms are part of wider changes the government is making to achieve its target of building 1.5 million new homes during this parliament, with an emphasis on the need to deliver affordable housing.
- 6 The NPPF stipulates that within the context of the overall housing requirement, the size, type and tenure of housing needed for various groups should be assessed and reflected in planning policy, including those requiring affordable housing, older people, students and those wishing to build their own homes. The proposed NPPF reforms and reintroduction of housing targets makes the delivery of allocated sites more important.

- 7 The EOO site has a number of delivery challenges with the development requiring a co-ordinated approach across multiple landowners for land assembly for the delivery of the essential new road infrastructure (EORR) to unlock the wider EOO site. The EORR infrastructure requires the commitment of significant costs to secure early delivery of a new multi-modal route located to the east of the site linking from the A659/Pool Road to the A660 Leeds Road. Challenging ground conditions have increased the abnormal costs for the delivery of both the road and development.
- 8 EOO continues to require collaboration and problem solving between the private and public sector to achieve a viable and deliverable solution that meets planning requirements, and which creates a high quality, sustainable development for the town of Otley.

### **Masterplan and Planning**

- 9 In February 2021, a hybrid planning application was jointly submitted by LCC and Persimmon, as the majority land owning interests, together holding c65% of the site's land including the land required for the full delivery of the EORR. The application consisted of full details for EORR and first phase of housing (149 units to include 35% affordable) and outline for the remainder of the site. Following consultation and comments received on the application through the summer of 2021, the applicants and LPA agreed to a pause in determination of the application, to address various technical matters including design, environmental impacts, biodiversity net gain and the route of the EORR, and to subsequently reshape the masterplan.
- 10 Work has continued on the Masterplan and EORR alignment since 2021, to address the comments and concerns raised through the planning application consultation. Further engagement with the LPA is due to commence by early 2025. It is anticipated that there will be further stakeholder engagement in early Spring once the planning process is re-commenced.

### **Viability & Funding**

- 11 In June 2019, the Council was successful in securing a allocation of £6.3m through the government's Housing Infrastructure Fund (HIF) to contribute to a large part of the costs for the design, planning and delivery of the EORR. This was offered as a 'recoverable grant' to address the significant up-front costs associated with the scheme, but not to fund a viability gap. It was injected into the capital programme in May 2019, with the Council entering into a conditional Grant Funding Agreement (GFA) with Homes England in October 2019, which required grant drawdown by March 2024.
- 12 The GFA required there to be a binding Collaboration Agreement (CA) between the Council and developers to recover costs to the value of the grant upon completion of the development before the funds could be drawn down, as well as assurance that the homes will be developed through a deliverable and viable planning permission.
- 13 In February 2020 Executive Board approved the drawdown of up to £2.245m from the capital programme to cover fees and costs associated with progressing the project (including planning costs), to be reimbursed through the HIF grant.
- 14 There have been significant economic and market changes since the original HIF GFA was entered into, which have placed further pressure on the viability of the EOO project. These impacts are set out in. Exempt Appendix 1.

- a) In Autumn 2023 it became clear that the HIF GFA conditions could not be fully met due to a number of factors including a reluctance from developers to enter into the collaboration agreement without planning permission and An increasing viability gap putting the deliverability of the project at risk.
- 15 The above factors contributed to the inability of the project to draw down the HIF grant as had been the original intention when entering into the GFA.
- 16 The HIF programme officially came to an end in March 2024, and there is now a need to agree a mutual withdrawal from the GFA between the Council and Homes England (set out in recommendation (a)).
- 17 Positive discussions with Homes England have continued through this period to explore other more appropriate funding opportunities within the changed funding and place partnership landscape. The EOO site was included as a key site to contribute to regional housing growth in the Strategic Place Partnership between Homes England and West Yorkshire Combined Authority that was launched in 2023. This coincided with the launch of Homes England's new Strategic Plan and its Brownfield, Infrastructure, Land (BIL) fund, which provides a flexible and responsive tool to unlock grant and equity activities to better support the needs of places, partners, and projects.
- 18 Homes England has provided direct support to the EOO project to enable the commissioning of additional work to support the master planning and planning application, in undertaking environmental studies and transport assessments.
- 19 Working with the Council and PHWY, Homes England agreed to progress a BIL Fund Business case for the EOO project in September 2024. Work is now ongoing to develop the Business Case with Homes England, with the outcome of this process expected early in 2025.
- 20 As set out in recommendation (b) and contingent on the HIF GFA withdrawal, approval is now sought to agree in principle that the Council enters into a new Grant Funding Agreement with Homes England for BIL funding that will enable delivery of the enabling site infrastructure, subject to Homes England approvals, with the details of this being delegated to the Director of City Development.
- 21 Further to Executive Board approvals of June 2019, the Council remains in negotiations to agree Heads of Terms for disposal of its land assets within the East of Otley allocation (comprising 15.57ha) to PHWY, to help facilitate the delivery of EORR and the wider EOO development.
- 22 Should the BIL funding Business Case be successful then there will be a requirement in the GFA to recover any surplus profit generated from the scheme over and above the agreed commercial development profit level within the viability appraisal for the project. Any surplus profit generated from the scheme ultimately reduces the initial viability gap and upfront grant ask identified through the BIL Business Case process and should therefore be returned to the public purse for reinvestment in other infrastructure schemes. Any surplus profit from the scheme will be captured utilising the proposed recovery mechanisms set out in Exempt Appendix 2. The surplus profit would only be recovered from developer partners (not the Council) where a surplus profit is identified through viability appraisals as part of the detailed planning process.

23 In regard to the Council's expenditure through the Capital Programme the Council will have the facility to drawdown of BIL Grant (if approved) where directly related to Planning costs already incurred. The Council's land receipt will be hypothecated to meet expenditure where linked to legal, land, and project co-ordination. Recommendation (d) of this report requests that Council land at the EOO site is injected into the capital programme, noting the draw on this receipt to also cover costs as outlined above from the gross receipt.

### **What impact will this proposal have?**

24 **Delivery of a site allocation** – The Council's planning service maintains up to date evidence on housing needs mainly for the purposes of plan-making and also needs to maintain information on a 5-year housing land supply to ensure that there is sufficient land to meet those needs across the city. Proposed changes to the NPPF and the reinstatement of housing targets makes this even more important in future years. The Strategic Housing Market Assessment (SHMA) assesses local needs for housing including the overall housing requirement, affordable housing needs, student accommodation, older persons housing and the requirements for specialist homes. The updated SMHA identifies the increased need for affordable housing across the city; this site will deliver 35% affordable housing.

25 **Delivery on an allocated site** – Delivery of housing on this allocated site relieves pressure on other sites in the Outer North West HMCA, and potentially sites that either are currently not allocated in the SAP or have an Employment allocation. This is the largest single allocated site in the Outer North West HMCA, on the edge of a major settlement with the potential to establish high quality active travel links to its town centre.

26 **Sustainable Housing** – In line with new Building Regulations, all housing will be non-gas supplied, and heating provided by air-source heat pumps. Homes will be fitted with solar PV panels and all homes with garages will be provided with EV charging points.

27 **Environmental (Habitat)** – As a greenfield site Biodiversity Net Gain (BNG) considerations will be considered in its design and planning. The Masterplan seeks to improve BNG through landscape design, habitat creation associated with a creative and sustainable drainage regime across the site. This habitat creation and enhanced BNG will be embedded in the landscape and drainage schemes (green and blue infrastructure), but it will not result in fundamental alterations to the areas of land dedicated to ecology, landscape and drainage, merely the detail of how this is designed and operated.

28 **Environmental (Highways)** – Traffic modelling for the outline design of EORR has now been completed and it indicates that there would be a relieving benefit in traffic through Otley town centre. A high level representation of this is that the relieving benefit would be broadly equivalent to the public's perception of traffic alleviation on the road network during school holidays.

29 **Marmot City** – As reported to Executive Board in November 2024, the Marmot Places programme has a focus on health and housing in reducing health inequalities and build a fairer city. The delivery of this site aims to support these principles through the delivery of quality placemaking and design, sustainability of place, active travel routes, access to greenspace, provision of a primary school, employment, and much needed affordable homes.

30 **Equality, Diversity, Cohesion and Integration (EDCI)** – An EDCI screening form has been completed and can be found at Appendix 3. The proposals do have positive impacts as realising the development of the site will address the allocation requirements for a new relief road that will ease traffic congestion in the town, improve Air Quality, provide affordable housing, include land set aside for employment, a new two-form entry primary school and public green space. At this stage the masterplan proposals are still under review and therefore not enough detail to consider the EDCI implications of the proposed development that would arise from any transaction involving the Council’s land, this will be reviewed in 2025 as set out in the high level timeline at Appendix 3.

**How does this proposal impact the three pillars of the Best City Ambition?**

Health and Wellbeing                       Inclusive Growth                       Zero Carbon

31 **Health & Wellbeing** – The proposal will give people access to a range of new housing products including affordable housing, and enhanced greenspace. These are factors that would make a positive contribution to people’s physical, mental, emotional, and social health.

32 **Inclusive Growth** – The proposal will address this Best City Ambition pillar through the provision of a new sustainable neighbourhood with affordable housing, employment, a new primary school. The scheme would deliver social benefits and tackle inequalities spreading benefit more fairly between people and places.

33 **Zero Carbon** – To meet this pillar, it is proposed that all housing will be non-gas supplied, and heating provided by air-source heat pumps. Homes will be fitted with solar PV panels and all homes with garages will be provided with EV charging point.

**What consultation and engagement has taken place?**

Wards affected: Otley & Yeadon		
Have ward members been consulted?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

34 In addition to the consultation as per of wider planning matters, 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 as part of the adopted Otley Neighbourhood Plan.

35 Consultation regarding this proposal has taken place with the Executive Member for Economy, Transport and Sustainable Development, the Executive Member for Housing, the Executive Member for Resources and local Ward Members on 14<sup>th</sup> November, 20<sup>th</sup> November, and 27<sup>th</sup> November 2024.

36 The Council has worked with Homes England, the West Yorkshire Combined Authority and PHWY as part of a multi organisation approach to secure a delivery approach for this site.

### **What are the resource implications?**

- 37 Under the principles set out in the June 2019 Executive Board report the Council will need to demonstrate that it receives the 'best consideration' for its land as part of its land transaction to facilitate the first phase of development and EORR infrastructure. This will be supported by the valuation work undertaken to support the scheme as set out within this report.
- 38 An injection of £6.3m was made into the Capital Programme (Parent Scheme 33010) in anticipation of commencing drawdown of the HIF recoverable grant to contribute to the costs of the delivery of EORR once planning permission had been obtained. The HIF recoverable grant is no longer available to this project for the reasons set out in this report and approval for a withdrawal from this funding programme, with mutual agreement of is being sought from Executive Board.
- 39 Due to constraints with HIF conditionality and changes to the project viability, as referred in Exempt Appendix 1, approval is being sought to agree in principle that the Council enters into a Grant Funding Agreement with Homes England for BIL funding as the Business Case process is successful.
- 40 The Council's expenditure through the Capital Programme on this project to date, will be recovered both via the drawdown of BIL Grant (if approved) where directly related to Planning costs, and where project costs are linked to legal, land, and project co-ordination related expenditure this will be recovered via the Council's land receipt.

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

- 41 The complex and challenging nature of this project has meant that viability has changed significantly since the 2019 HIF GFA as set out in Exempt Appendix 1. To manage and mitigate this risk the Council are working in partnership with Homes England and lead developer, Persimmon, to address the increased viability challenge through development of a business case for BIL funding. To further mitigate this risk the assumptions and modelling of the updated viability work has been agreed between the stakeholders involved in the development of the BIL business case, however there will be a further check and viability update prior to the business case being submitted to ensure the viability is as robust as it can be.
- 42 The delivery of the EORR infrastructure and EOO mixed use development provides a significant contribution to housing delivery in Leeds and is the largest housing site in the Outer North West Housing Market Characteristic Area and will contribute to local housing needs including affordable housing provision where current policy requirement is 35%. Failure to deliver the site would undermine the corporate the responsibility of the Council to deliver new housing to meet housing requirements in the Core Strategy. This is a major site that will deliver a significant number of homes to help mitigate this risk.

### **What are the legal implications?**

- 43 A subsidy control assessment will be required to ensure that any new grant funding is compliant with the Subsidy Control Act 2022, and due diligence will need to be completed on the land and planning obligations to comply with obligations in any future Grant Funding Agreement to provide a certificate of title and legal opinion letter.



- 44 The information within Appendix 1 and Appendix 2 to this report contain information that is commercially sensitive, relating to the financial or business affairs of third parties. It is therefore considered that they should be treated as exempt under Access to Information Procedure Rule 10.4(3). The details of the appendices relate to specific legal and commercial terms between Leeds City Council and third parties relating to the delivery of the scheme. These terms have not been finalised and remain in development. Disclosure of this information at this point could impact on the Council's negotiating position therefore, it is considered that the public interest in maintaining the content of the appendices as exempt outweighs the public interest in disclosing the information.
- 45 The BIL grant monies would be paid directly to the Council through s31 of the Local Government Act 2003. The Council would be responsible for spending any funding received in accordance with all legal conditionality of the Grant Funding Agreement.
- 46 The Council has wide ranging powers in respect of the proposals outlined in this report: Section 24 of the Highways Act 1980 allows the Council to construct new highways, Section 123 of the Local Government Act 1972 provides for the Council to dispose of land, Section 111 of the Local Government Act 1972 gives the Council the power to do anything which will facilitate or is conducive or incidental to the discharge of any of its functions, whilst Section 1 of the Localism Act 2011 gives the Council the power to do anything that individuals generally may do subject to some restrictions.

## Options, timescales and measuring success

### What other options were considered?

- 47 **Do nothing** – under this option development would not be delivered placing pressure on other sites in the Outer North West HMCA, and potentially sites that either are currently not allocated in the SAP or have an Employment allocation. There would be no EORR delivered which means the opportunity for relieving benefit to Otley Town Centre would be lost as would the wider community benefits that a comprehensive placemaking development would bring. Any site not delivered within this Local Plan period, the allocation would be reviewed as part of the Leeds Local Plan 2040 programme..
- 48 **Partial delivery** – this option involves partial delivery of the road on the less topographically challenging part of the site from the A659/Pool Road southwards into the site, creating a cul-de-sac type access road that would facilitate the delivery of less housing than the indicative 550 homes figure in the SAP. Partial delivery of the road has Planning Policy constraints as Policies H3-3A.30 and E4 (20) require a commitment to deliver (via a legal agreement, such as a s278) the completion of the relief road within 5 years of commencement of the housing development. Partial delivery of the road could also mean the opportunity for relieving benefit to Otley Town Centre would be delayed as well as the wider community benefits that a comprehensive placemaking development would bring.
- 49 The two alternative options above at paragraphs 47 and 48 do not result in the upfront delivery of the whole road with the consequences being that a relieving benefit to Otley Town Centre is not realised and much needed housing in this Outer North West HMCA cannot be unlocked and delivered. To enable upfront delivery of the whole road and subsequent delivery of housing an increase in grant investment is required, therefore, this report recommends a decision to agree

in principle that the Council enters into a Grant Funding Agreement for BIL funding (subject to Homes England approvals) with Homes England, with the details of this being delegated to the Director of City Development.

### **How will success be measured?**

- 50 Delivery of EORR within the BIL programme timescales, delivery of this site allocation and the associated wider benefits this scheme brings including affordable housing, job creation, education provision, sustainability and BNG enhancement.
- 51 Delivery of relieving benefits to Otley Town centre as a result of the BIL funding (subject to Homes England approvals) as set out in this report.

### **What is the timetable and who will be responsible for implementation?**

- 52 The timetable will need to align with the BIL programme which requires the project to be in contract by 31 March 2026 to deliver the EORR infrastructure. Leeds City Council will be the recipient of the BIL grant funding (subject to Homes England approvals) and be responsible for constructing the EORR infrastructure, subject to planning.

### **Appendices**

- Exempt Appendix 1 – Project Viability Summary – designated as being exempt from publication under the provisions of the Access to Information Procedure Rule 10.4(3)
- Exempt Appendix 2 – Cost Recovery Summary – designated as being exempt from publication under the provisions of the Access to Information Procedure Rule 10.4(3)
- Appendix 3 – Equality, Diversity, Cohesion and Integration Screening Form

### **Background papers**

- None.