

**Report of the Director of City Development**

**Report to Executive Board**

**Date: 12<sup>th</sup> February 2020**

**Subject: Delivering the East of Otley Relief Road and Housing Allocation**

Are specific electoral wards affected? If yes, name(s) of ward(s): Otley & Yeadon	<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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will the decision be open for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: 10.4 (3) Appendix number: 2	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**Summary**

**1. Main issues**

- The East of Otley site was first identified as a development opportunity in 1995, and became allocated for mixed uses (residential and employment development) in the adoption of the 2006 Unitary Development Plan. The development site is saved and identified in the adopted Site Allocation Plan (SAP) as contributing to the important role in delivering new homes and jobs for this part of the district. It is the largest single allocation within the Outer North West Housing Market Characteristic Area (HMCA).
- The site presents a significant opportunity to deliver a high quality mixed use and sustainable extension of Otley and in so doing make a major contribution to the delivery of the city's Core Strategy objectives and the Leeds Inclusive Growth Strategy. The development of the site requires a new East of Otley Relief Road (EORR) to service the development and for the wider benefit of relieving traffic congestion, improving the environment of Otley town centre and helping to grow the local economy as a whole. It will entail the delivery of the following development outcomes:
  - a. 550 dwellings, 35% (c.190) of which are to be provided as social or affordable rented homes
  - b. A new relief road (EORR)
  - c. A new primary school

- d. 5 hectares of employment land
  - e. Public Green Space
  - f. Provision of local community facilities, which would include the relocation and reprovision of Sports Pitches affected by the scheme.
- A Climate Emergency was declared by the City Council on 27<sup>th</sup> March 2019. It is therefore critical that the development to the East of Otley and the EORR is designed in a way that not only mitigates the impact of the scheme on climate change but also makes a positive contribution to the sustainable development of the District. It is anticipated that there will be immediate improvements to air quality in Otley Town Centre through reductions in congestion and overall vehicular traffic levels as a result 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.
  - A key priority is the delivery of the EORR to unlock development through the provision of a major new access road and to achieve the wider environmental, social and economic benefits this would bring for Otley. The EORR will be a highly technical, and challenging engineering project with costs significantly exceeding that of a standard highway, requiring collaboration and motivation of all the landowners across the site. The site is also in multiple ownerships with complex commercial, legal, land and planning challenges to be addressed.
  - As reported to Executive Board in June 2019, the Council has been successful in securing a significant 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 May 2019, the Director of City Development approved injection of the £6.3m sum into the Capital Programme.
  - The Council entered into a conditional contract with Homes England (HE) for this funding in October 2019. Once draw down of the funding commences it is to be fully spent by March 2022, and the Council is required to recover the equivalent amount of the HIF grant from the developers of the East of Otley site upon completion of the scheme, to be reused to support other residential development schemes in the city.
  - The recovery of the HIF grant will be managed through a Collaboration Agreement between the Council and developers, which will formalise an equalisation mechanism for sharing infrastructure development costs.
  - As an owner of land within the allocated site, Executive Board has previously agreed that the Council should dispose of its land to the adjoining development interests on a one-to-one basis, subject to receiving best consideration.
  - The project is now at a position where in order to move forward with sufficient pace and diligence to meet timescales related to the availability HIF grant, commitments are required from the Council to commission detailed technical and design work for the EORR and from all parties with interests in the site to enter into formal collaboration arrangements.

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

- The Local Plan, made up of the adopted Core Strategy (as amended 2019), UDPR 2006 saved policies; Natural Resources and Waste DPD, 2013 & 2015 and the

adopted Aire Valley Area Action Plan and Site Allocations Plan (SAP) play a key strategic role in taking forward the spatial and land use elements of Leeds 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 2019/20 – 2020/21 priorities on Sustainable Infrastructure, Inclusive Growth, Health and Wellbeing and Safe, Strong Communities.

### **3. Resource Implications**

- Under the principles set out in the June 2019 Executive Board report the Council will require best consideration for its land as part of a 1-2-1 transaction to enable the development and related infrastructure at the East of Otley site.
- An injection of £6.3m has been made into the Capital Programme (Parent Scheme 33010) in anticipation of commencing draw down of the HIF grant to contribute to the costs of the delivery of EORR once planning permission for has been obtained.
- Recovery of the full HIF Grant as conditioned in the GFA will be detailed in a Collaboration Agreement (See Exempt Appendix 2) to be entered into with the developers/landowners of the wider East of Otley mixed-use development. A mechanism will be formalised which contractually obligates the developers/landowners to contribute their equalised share of the £6.318m HIF grant to this recovery. This will be achieved by any one or more of the following:
  - a. a "roof tax" secured under a section 106 obligation or under the terms of the Collaboration Agreement
  - b. payments by any current landowner of a part of the site to the Council either directly or through an equalisation mechanism;
  - c. the proceeds of any ransom obtained from a third party.
- In making its recovery, the Council will be entitled to have recognised the time and cost of any expenditure it has made. In other words, for each item of expenditure it shall be entitled to charge interest at a reasonable rate or to have each item indexed in line with RPI. Each of the Parties will agree the timing of such reimbursement but the Council must be fully reimbursed by the earliest of:
  - a. 31<sup>st</sup> March 2028;
  - b. occupation of 550 housing units on the Site.
- As per the recommendation, Executive Board is asked to give Authority to Spend £2.245m to enable completion of this critical preliminary work, which will enable the full costing of the EORR scheme, submission of a planning application and provide essential information to inform the Collaboration Agreement.

### **Recommendations**

- a) Note the continued positive progress made on the East of Otley scheme including entering into contract with Homes England for the Housing Infrastructure Fund;

- b) Note the proposed environmental measures to be implemented as part of the design and delivery of the EORR and the wider East of Otley development to help towards supporting the reduction of the climate impacts the scheme may have;
- c) Approve the drawdown of £2.245m from the Capital Programme (Scheme 33010) for the provision of funding to cover further fees and additional costs to progress the EORR project up to and through the planning process and to delegate Authority to Spend to the Director of City Development in consultation with the Executive Member for Climate Change, Transport and Sustainable Development. Note these costs will be recovered to the Capital Programme following the first drawdown of the Housing Infrastructure Fund grant in respect of the costs associated with the EORR or from the landowners via the Collaboration Agreement in respect of the costs incurred as part of the wider residential led mixed use scheme;
- d) Note the positive progress made towards completing a Collaboration Agreement as set out in Exempt Appendix 2 and delegate the Director of City Development to enter into detailed terms with developers of the East of Otley site;
- e) Note the detail set out in Exempt Appendix 2 in terms of potential claims for compensation under Part 1 of the Land Compensation Act 1973 (LCA 1973) and the Agricultural Holdings Act;
- f) Note the positive progress made relating to the disposal of the Council's land within the East of Otley allocation, and note the intention to enter into an Agreement with Persimmon Homes to facilitate the delivery of infrastructure and development at the East of Otley site. The Head of Land & Property will be responsible for overseeing the detailed terms of the disposal and the agreement.

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

- 1.1 The purpose of this report is to update and inform Executive Board on the positive progress that has been made on bringing forward the East of Otley development since the last report presented in June 2019.
- 1.2 The report also requests Authority to Spend £2.245m from the capital programme to cover costs and fees associated with taking the project up to and through the planning process.

## **2. Background information**

- 2.1 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 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 requirements.
- 2.2 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 delivered for a mix of social and affordable rent, offering housing opportunities for local people 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.

- 2.3 The delivery of the site and associated infrastructure as set out in planning policy requirements, 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 as a result 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 in particular 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 reductions in congestion
- 2.4 A referendum is to be held in due course on the Otley Neighbourhood Plan (ONP) following receipt of modified versions of the ONP and the ONP Map in accordance with the examiner's recommendations. The delivery of the East of Otley site and the UDP policy requirements are reflected in the plan.
- 2.5 The site allocation is shown within the blue line boundary of Appendix 1.
- 2.6 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 forming part of the strategic highway network and is supported by UDP Review (2006) Policy T20 (3).
- 2.7 Notwithstanding these benefits, the site presents a number of challenges. The development of the full site requires a co-ordinated approach across multiple land owners, land assembly for the delivery of the essential road infrastructure and commitment of significant costs in the delivery of the EORR, which will need to be of a new construction located to the east of the site of approximately 1.4km in length linking from the A659/Pool Road north of the site to the A660 Leeds Road, to the South West. Challenging ground conditions, including an historic land slip on Otley Chevin, will also increase the abnormal costs for the delivery of both the road and development.
- 2.8 These challenges have to date prevented the site coming forward as a viable, coherent and properly planned proposition for development that would unlock the benefits locally.

### **3. Main issues**

#### **3.1 Housing Infrastructure Fund Grant**

- 3.1.1 The government's Housing Infrastructure Fund (HIF) was established in 2017 to provide funding of site or infrastructure interventions across the country that would

enable the acceleration of housing delivery on sites that are currently stalled or requiring significant barriers to be removed.

- 3.1.2 As reported to Executive Board in September 2017, the Council submitted a £6.318m bid to the HIF as a contribution to meeting the funding gap associated with abnormal costs in the construction of the East of Otley Relief Road and to unlock and accelerate progress with the site coming forward for housing. In January 2018, the Council was informed by government that the East of Otley scheme submission had been successful in national competition to receive the requested amount of funding, subject to a final due diligence process and contract.
- 3.1.3 In November 2018, following completion of the due diligence process a grant determination agreement (GDA) was issued by HE to the Council. This included the requirement that the Council accepts an obligation to recover the full amount of the HIF grant funding from developers of the East of Otley site upon completion of the scheme, to be reused to support other residential development schemes in the city.
- 3.1.4 In May 2019, the Director of City Development, approved through delegated authority that the Council enter into a Grant Funding Agreement (GFA) with HE for a Housing Infrastructure Fund grant of £6.318m, and approved injection of this sum into the Capital Programme. The GFA was entered into in October 2019.
- 3.1.5 The Council is not committed to recovering the HIF Grant until the first payment has been drawn down; this date is captured in the projected milestones within the GFA. It has been agreed with HE that the Council has a timeframe of up to the first funding drawdown in which to amend the milestone dates and EORR cost estimate; these will be locked down following the outcome of various technical assessments on the site and completion of detailed design and planning work for the EORR. Once finalised the milestone dates and spend will be monitored by HE over the lifetime of the project.
- 3.1.6 The Council is required to recover the equivalent amount of the HIF grant from the developers of the East of Otley site upon completion of the scheme, to be reused to support other residential development schemes in the city. The mechanism to recover the full amount of the HIF grant funding will be detailed in a Collaboration Agreement to be entered into with the developers/landowners of the wider East of Otley mixed-use development.
- 3.1.7 The Collaboration Agreement will also contractually obligate the developers/landowners to meet the HIF grant conditions which are outside of the Council's control, for example, if a landowner/developer should seek to reduce the proportion of affordable housing for viability reasons then they must first seek prior written consent from Homes England for the reduction before commencing negotiations with the Local Planning Authority.
- 3.1.8 The intent and principles of the Collaboration Agreement are set out in Exempt Appendix 2. Executive Board is asked to approve the overall approach set out therein as the basis for negotiating detailed terms with the land and development interests in the East of Otley site to enable its progression towards delivery on the basis set out in this report.

## 3.2 **The East of Otley Relief Road (EORR)**

- 3.2.1 In order to maintain the current momentum with the delivery of this housing development allocation, further work is now required on the detail of the relief road

including the necessary studies and reporting needed to inform the future planning application.

- 3.2.2 Construction of the EORR is an essential element in enabling the development site to come forward. EORR will be adopted as public infrastructure and significant public grant is available to be drawn down by the Council through HIF. Executive Board has previously approved that the Council takes the lead role in designing, procuring and delivering the highway scheme.
- 3.2.3 There are strong parallels with the East Leeds Orbital Road (ELOR) scheme, where the Council has successfully taken a major infrastructure scheme through feasibility, design, planning and funding processes, as an enabler of significant housing growth on a related allocated housing site, through a co-ordinated approach with landowners and housebuilders.
- 3.2.4 It is a model of working and project delivery that can be replicated for the East of Otley scheme. Similar to ELOR, existing local circumstances and conditions will be considered, drawing on 'Green Streets' principles, delivering the road scheme as part of a multi-modal movement corridor. It will introduce extensive landscaping and relate appropriately to the development and amenity of the new neighbourhood through a joint masterplanning process. In addition to the landscaping, noise attenuation measures will also be incorporated as part of the outline design process.
- 3.2.5 Non-motorised users (NMU's) will be accommodated within the design development, with the road having formal segregated pedestrian and cycle facilities, which will integrate with the new development. The continuity of existing routes and footpaths will also be maintained creating links from Otley and the proposed development site to the greenbelt land beyond. It is not anticipated that the road will have a direct requirement to accommodate a bus route but the relieving nature will benefit bus movements in the centre of Otley and contribute to reliability and attractiveness of services to the town.
- 3.2.6 Previous Executive approvals have enabled some initial ground investigation to be undertaken and traffic data that had previously been collected has enabled local traffic modelling. The ground investigation results and modelling outcomes have been used to test feasibility and assure the outline proposals for the alignment and capacity of the proposed road. The indicative alignment of the EORR can be seen in Appendix 3.
- 3.2.7 A number of other important technical assessments including various ecological surveys have already been undertaken or commissioned by the landowners and have been shared with the Council in the spirit of collaboration and ensuring efficiencies.
- 3.2.8 Executive Board has previously authorised the Chief Officer Highways and Transportation to undertake the following key tasks to be funded through the HIF grant, in consultation with the Executive Member for Climate Change, Transport and Sustainable Development:
  - (a) Commission all relevant site and engineering due diligence activity to inform the scoping of the EORR scheme;
  - (b) Submit a planning application for the EORR;
  - (c) Procure a contractor for the delivery of the scheme
- 3.2.9 In order achieve the programme milestones associated with the HIF funding, it is important that the time period between obtaining planning permission and the commencement of construction of the road is minimised. This being the case, the

emerging procurement strategy involves Early Contractor Involvement (ECI) whereby a Contractor is appointed in advance of the planning application to work alongside the Council to advise on design elements, programming, buildability and cost. This will not only inform the development of the planning submission but also give the Contractor a much greater understanding of the proposed works enabling a quicker start on site following planning approval.

- 3.2.10 In addition to the above, ECI will also give maximum opportunity to understand and address social value elements of the road scheme including the impacts on the climate allowing informed decisions to be made on the final delivery solution.
- 3.2.11 Subject to the grant of planning approval for the EORR and the wider residential led mixed use scheme, the Council will be in a position to draw down the HIF grant and back fund all fees and expenditure associated with the EORR scheme. Drawdown will be subject to a development viability check and the Council being satisfied the ongoing HIF Grant Funding requirements such as outputs and delivery milestone will be achieved post down.

### 3.3 **Land Issues**

- 3.3.1 The site is in mixed land ownership, the main land interests are the Council (7.4 Ha of freehold land) and Persimmon Homes (8.7 Ha of freehold land and land held under options). Lovell Homes has consolidate a number of smaller interests through option agreements (amounting to 9.0 Ha). The balance of the ownership on this site is made up of smaller parcels held by Miller Homes, the Ogden Group, Stephen H Smith's Garden Centre and a private individual. A plan showing the controlling interests of the allocation can be seen at Appendix 1.
- 3.3.2 The Council has agreed Heads of Terms for the disposal of its interests within the allocated site to Persimmon Homes, which will enable a joined up approach to the release of land for the delivery of the EORR, as the essential early enabling scheme for the wider development.
- 3.3.3 All parties listed above are now represented in a Joint Working Group convened by the Council to provide for the collaborative approach required to bring forward the delivery of infrastructure and development of the site. Through this further consideration has been given to the way in which the development will come forward and its phasing to ensure there is an equitable approach so that all parties will contribute a fair share of costs and take a proportionate return of value over the life of the development site, at all times reflecting and accounting for the potential significant contribution from HIF.
- 3.3.4 To the east of the site in the Green Belt is a green space allocation in mixed ownership, which accommodates a number of pitches owned or leased for the benefit of three sports clubs - the Otley Town FC, Otlensians RUFC and Otley RUFC. This land will be partly affected by the alignment of the EORR, which will be required to pass through part of this area of playing pitches in order to make a connection with Pool Road. Persimmon Homes has additional land under option outside of the development allocation to which any affected pitches of Otley RUFC could be relocated, subject to agreement with Sport England, access to these being incorporated as part of the EORR project and related planning permission to be obtained.
- 3.3.5 There are local ambitions for a larger "sports hub" to be developed in the Green Belt at this part of Otley. Determination of any such scheme will be subject to its own planning assessment and would not form part of the delivery of the East of Otley



allocation. An application is anticipated at the stage when the details alignment of EORR is known. The potential integration and access arrangements from EORR are included as considerations in the overall development principles contained within the Council led Development Brief (see section 3.4 below).

### **3.4 East of Otley Planning Approach**

- 3.4.1 Given the anticipated scale of development it is essential that the site is brought forward in a comprehensive and timely way with consideration of all the requirements for the proposed land uses and infrastructure so that it is designed and developed to create a new and integrated community.
- 3.4.2 A Development Brief has been drafted by the Council that sets out the guiding principles for the site. This has been subject to informal consultation with ward members and the developer parties to the site, and it is intended that informal consultation is undertaken with the Otley Neighbourhood Forum prior to wider more formal public consultation. The formal consultation is anticipated to follow on from the referendum on the Otley Neighbourhood Plan (see 3.5 below).
- 3.4.3 On behalf of the Joint Working Group the Council has commissioned planning and design consultants Pegasus to prepare a more detailed masterplan, to be informed by the principles contained in the development brief. The masterplan process will involve ongoing stakeholder engagement which brings all landowner and other local interests together. The Masterplan will expand on a detailed spatial vision for the site and specific arrangements of uses, whilst also providing clarity on parcelling and phasing of development within the overall site scheme. This not only has the benefit of planning the site in a coordinated way, but also allows for the required equalisation approach to land values to be established which ensures that the costs of delivering key elements of shared infrastructure such as greenspace do not fall onto single ownerships, but are spread across the entire site.

### **3.5 Otley Neighbourhood Plan**

- 3.5.1 In September 2017, Otley Town Council undertook consultation on the Pre - Submission Draft of the Otley Neighbourhood Plan. Since then consideration has been given to comments received and amendments made accordingly. The Town Council submitted the plan (November 2018) and following independent Examination the Inspectors Report was published on 10<sup>th</sup> June 2019 recommending that the plan proceeds to referendum. Due to the General Election held in December 2019 the Otley Neighbourhood Plan referendum has been postponed until 20<sup>th</sup> February 2020.
- 3.5.2 The Draft Plan has given serious consideration to the basic principles which should underpin the development of the East of Otley. The plan sets out local concerns regarding traffic congestion within Otley and the wider area, particularly given the unknown consequence of other planned (and unplanned) developments in Otley and the surrounding areas. It is however recognised that a completed relief road is likely to improve traffic flows around the town and may even create significant opportunities to make traffic improvements within the town centre.

## **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 as part of the HIF bid.
- 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 relating to the masterplan and development brief are developed in discussion with the developers and other landowners.

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

- 4.2.1 An Equality and Diversity, Cohesion and Integration (EDCI) screening has been completed to inform the consideration of the issues set out in this report (Appendix 4). It is assessed that at this stage there are no EDCI implications but this will be kept under review through the next stages of work to bring forward this development and the related infrastructure.

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

- 4.3.1 The adopted Core Strategy, UDPR 2006 saved policies and the SAP and Core Strategy Selective Review play a key strategic role in taking forward the spatial and land use elements of Leeds 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 2019/20 – 2020/21 priorities on Sustainable Infrastructure, Inclusive Growth, Health and Wellbeing and Safe, Strong Communities.

#### Climate Emergency

- 4.3.2 A Climate Change Emergency was declared by the City Council on 27<sup>th</sup> March 2019. The statutory plan-making process and the implementation of those plans takes forward the sustainable development of the District and the ability to mitigate and adapt to the consequences of climate change (including the need for carbon reduction to meet agreed targets).
- 4.3.3 Taken as a whole, the Leeds Development Plan (and Supplementary Planning Documents and Guidance), including the adopted Natural Resources and Waste Plan, Core Strategy, Aire Valley Leeds Area Action Plan, and the Core Strategy Selective Review and the Site Allocations Plan, have a positive impact on ensuring sustainability and reducing carbon emissions and protecting and enhancing biodiversity. A consequence of not having these plans in place and ensuring they are delivered is poorly planned, unco-ordinated and *ad hoc* development proposals, being determined on their merits outside an integrated planning framework.

- 4.3.4 A fundamental purpose of a plan-led approach, is to plan the spatial and inclusive growth of the District, with regard to the longer term strategic imperatives of Sustainable Development and Climate Change. Consequently, the integration of land use allocations and transport planning, the provision of renewable energy and sustainable infrastructure for new development, the protection and enhancement of green infrastructure and the management of waste flows and the consumption of natural resources, are integral to the policy framework for influencing investment decisions and the determination of planning applications.
- 4.3.5 Within this overall context, the East of Otley mixed use allocation identifies land for new homes and jobs in a location found to be sound and sustainable, consistent with the overarching framework of the Core Strategy so as to reduce the need for people to travel (providing attractive connections for pedestrians and cyclists to the centre of Otley (including public transport) and wider cycling links) and ensure local needs are met locally as far as possible.
- 4.3.6 Significantly also, the East of Otley allocation will create and integrate improved green space and landscaping; serving to provide important local amenity and recreation (having health and wellbeing benefits) but will also form part of a wider green infrastructure and habitats network (biodiversity benefits, tree protection/planting), which in turn contributes mitigating the effects of climate change through urban cooling, flood storage, sustainable drainage and reducing greenhouse gases.
- 4.3.7 In addition the development at the East of Otley can meet energy efficiency standards and tighter water consumption standards alongside provision of electric vehicle charging points and the potential to design in renewable energy generation, as set out in Core Strategy policy and these elements of design will be pursued through the masterplanning and application process to ensure that the development is consistent with policy and necessary responses to climate change issues are addressed.

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

- 4.4.1 Under the principles set out in the June 2019 Executive Board report the Council will require best consideration for its land as part of a 1-2-1 transaction to enable the development and related infrastructure at the East of Otley site.
- 4.4.2 An injection of £6.3m has been made into the Capital Programme (Parent Scheme 33010) in anticipation of commencing draw down of the HIF grant to contribute to the costs of the delivery of EORR once planning permission for has been obtained.
- 4.4.3 Recovery of the full HIF Grant as conditioned in the GFA will be detailed in a Collaboration Agreement (See Exempt Appendix 2) to be entered into with the developers/landowners of the wider East of Otley mixed-use development. A mechanism will be formalised which contractually obligates the developers/landowners to contribute their equalised share of the £6.318m HIF grant to this recovery. This will be achieved by any one or more of the following:
- a "roof tax" secured under a section 106 obligation or under the terms of the Collaboration Agreement;
  - payments by any current landowner of a part of the site to the Council either directly or through an equalisation mechanism;
  - the proceeds of any ransom obtained from a third party.

4.4.4 In making its recovery, the Council will be entitled to have recognised cost of any expenditure it has made. In other words, for each item of expenditure it shall be entitled to charge interest at a reasonable rate or to have each item indexed in line with RPI. Each of the Parties will agree the timing of such reimbursement but the Council must be fully reimbursed by the earliest of:

- 31<sup>st</sup> March 2028;
- occupation of 550 housing units on the Site.

4.4.5 As per the recommendation, Executive Board is asked to give ATS for £2.245m to enable completion of this critical preliminary work, which will enable the full costing of the EORR scheme, submission of a planning application and provide essential information to inform the Collaboration Agreement.

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

4.5.1 External legal advisors who were appointed by the Council, continue to advise and assist in providing a joined up approach to the range of legal matters relating to the East of Otley site, including the disposal of the Council's land, planning co-ordination, commercial and other 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 ensure any proposals brought forward are State Aid compliant.

4.5.3 The HIF grant monies are to be paid directly to the Council in instalments through s31 of the Local Government Act 2003. On drawdown of the HIF grant an initial claim will be made in respect of fees and costs in respect of the EORR incurred up to the date of claim. Thereafter instalments will be paid in line with an ongoing claims procedure. The Council would be responsible for spending any funding received in accordance with all legal conditionality for demonstrating recovery of the grant upon completion of the site development.

4.5.4 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. It is also relevant to note that the Council has power under section 120 of the Local Government Act 1972 to acquire land for the purposes of any of its functions, this could involve acquiring land for EORR.

4.5.5 There is no current proposal or requirement that any part of the site should be subject to compulsory purchase proceedings, as all parties are engaged in the collaborative approach set out in this report. The use of a Compulsory Purchase Order (CPO) should only be considered an option of last resort in regard to the delivery of complex and comprehensive site assembly and development projects such as this, where negotiations to purchase and commit required land to the scheme through private agreement cannot be progressed alongside other legal requirements as set out below. Whilst, Executive Board is not being asked at this point in time to mandate the initiation of such statutory proceedings it is noteworthy that the current status of the collaboration arrangements are such that there

remains a continued positive working relationship that works are pace to ensure delivery of the sustainable site delivery.

- 4.5.6 As Executive Board are aware, the success of any proposed compulsory purchase action is highly dependent on demonstrating a compelling case in the public interest for the CPO. Human rights and equalities impacts would be key considerations, as would funding and viability, clarity in the specific acquisition powers being utilised, securing planning permission for the site and being clear on the technical issues, the considerations of options, and other relevant matters such as having the appropriate development agreements in place that would secure the scheme for which compulsory action is proposed, as set out in all appropriate Government CPO guidance and associated legislation.
- 4.5.7 The information contained within the Exempt Appendix 2 attached to this report sets out the principles of a Collaboration Agreement between the Council and developers that is yet to be fully agreed and contains information that is commercially sensitive, relating to the financial or business affairs of third parties. It is therefore considered that this element of the report should be treated as exempt under Rule 10.4(3) of the Access to Information Procedure Rules.

## **4.6 Risk management**

- 4.6.1 The delivery of the EORR scheme and 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. Failure to deliver the site would undermine the corporate risk and 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.
- 4.6.2 The Council will approach any sale of its land based on the principle of obtaining Best Consideration and that the funding and delivery of the EORR is secured as part of a policy compliant approach to development of the wider site. No commitment to a land transaction will be made unless and until the Council can gain certainty on these matters and subject to further appropriate consultation with the Executive Member for Climate Change, Transport and Sustainable Development and relevant governance approvals.
- 4.6.3 Work is well underway with the main developer interests and all parties are working in collaboration to establish the full development scope and phasing, alongside working up estimated of costs relating and anticipated land values.
- 4.6.4 The conditional nature of the HIF GFA, in particular that the funding cannot be drawn down until planning permission is obtained creates a position where the Council as accountable body for the grant, as a convening body for the co-ordination of the wider East of Otley development and as an enabling Highways Authority leading on the delivery of the EORR, must take a view on the acceptable level of financial or legal risk to assume in order for the project as a whole to make progress, in advance or receiving this funding. The following risks and mitigation are being managed:
- Draw down of grant funding can only commence upon achievement of a number of HE conditions including planning approval for the EORR and the wider residential led mixed use scheme – in the absence of other funding sources for the commissioning of essential works to take the scheme up to and through the planning process the Council must take a view on providing

the cash flow to fund this due diligence, design and planning work. These costs would either be recovered:

- Where the Project proceeds to drawdown and development-through the HIF grant in respect of fees and costs attributable to the EORR and through the Collaboration Agreement in respect of fees and costs attributable to the wider residential led mixed use scheme which will be shared proportionately by the landowners; or
  - Where the Project does not proceed abortive fees and costs generally will be recoverable through the Collaboration Agreement and will be shared proportionately by the landowners.  
The Council's contribution to such costs in the absence of HIF could be funded by eventual disposal of its land interests in the East of Otley allocation;
- The Council is liable for grant recovery from the scheme, though such value may not be available upon its completion for reasons of site viability or market conditions – the Council and parties to the site will establish further detailed information about the site and enter into a Collaboration Agreement to ensure recovery could be enabled prior to committing to grant draw down;
  - Funding is conditional on achieving programme milestones – the Council will work with all parties to the site to move the EORR design, masterplanning, and planning through to delivery ensuring that milestones are met;
  - Programme slippage in delivery of EORR may impact on the Council's ability to spend the HIF grant - this remains a risk but can be partly mitigated by HE's extension of the draw down date to March 2022 and design of the procurement, design and delivery programme accordingly;
  - The funding amount is only intended to meet abnormal gaps in infrastructure funding and may not be substantial enough to make the scheme fully viable – the Collaboration Agreement will cover the expectations on all parties to meet the full costs associated with the development of the site.

## **5. Conclusions**

- 5.1 The East of Otley site is a major mixed use development allocation in the Outer North West HMCA and will play a key role in delivering housing and employment needs for Otley and the wider city, meeting ambitions set out in the Best Council Plan, the Core Strategy and the Inclusive Growth Strategy.
- 5.2 There is a need for the Council to take a key role in facilitating the development of the site, particularly through leading on the design, planning and delivery of the EORR project and managing the deployment of the HIF grant, but also seeking the correct specialist advice for the planning application to offer the appropriate guidance and support that will optimise the delivery of the essential infrastructure and accelerated housing development.

## **6. Recommendations**

### 6.1 Executive Board is asked to:

- a) Note the continued positive progress made on the East of Otley scheme including entering into contract with Homes England for the Housing Infrastructure Fund;
- b) Note the proposed environmental measures to be implemented as part of the design and delivery of the EORR and the wider East of Otley development to help towards supporting the reduction of the climate impacts the scheme may have;
- c) Approve the drawdown of £2.245m from the Capital Programme (Scheme 33010) for the provision of funding to cover further fees and additional costs to progress the EORR project up to and through the planning process and to delegate Authority to Spend to the Director of City Development in consultation with the Executive Member for Climate Change, Transport and Sustainable Development. Note these costs will be recovered to the Capital Programme following the first drawdown of the Housing Infrastructure Fund grant in respect of the costs associated with the EORR or from the landowners via the Collaboration Agreement in respect of the costs incurred as part of the wider residential led mixed use scheme;
- d) Note the positive progress made towards completing a Collaboration Agreement as set out in Exempt Appendix 2 and delegate the Director of City Development to enter into detailed terms with developers of the East of Otley site;
- e) Note the detail set out in Exempt Appendix 2 in terms of potential claims for compensation under Part 1 of the Land Compensation Act 1973 (LCA 1973) and the Agricultural Holdings Act;
- f) Note the positive progress made relating to the disposal of the Council's land within the East of Otley allocation, and note the intention to enter into an Agreement with Persimmon Homes to facilitate the delivery of infrastructure and development at the East of Otley site. The Head of Land & Property will be responsible for overseeing the detailed terms of the disposal and the agreement.

## **7. Appendices**

7.1 Appendix 1 – Plan

7.2 Appendix 2 – Summary of Draft Collaboration Agreement (EXEMPT)

7.3 Appendix 3 – Indicative EORR Alignment

7.4 Appendix 4 – EDCI Delivering the East of Otley Relief Road and Housing Allocation

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

8.1 None.

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