

Delegated Decisions report



28 July 2020

Housing Infrastructure Fund – Decision to Accept Grant Funding

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| Name of Cabinet Member | Councillor Pete Marland Leader of the Council |
| Report sponsor | Sarah Gonsalves Director of Policy, Insight and Communications |
| Report author | Sophie Lloyd Policy Manager |

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|---|---|
| Exempt / confidential / not for publication | Yes* / No * DD paper not exempt, Appendix A (Grant conditions) and Appendix B (Grant conditions programme tracker) are exempt. |
| Council Plan reference | Not in Council Plan |
| Wards affected | All wards Olney/Broughton/Newport Pagnell South |

Executive summary

The Land East of the M1, identified as MK East, is a strategic development site formally allocated in Plan MK, contingent on identifying and securing infrastructure funding. In March 2019, the Council applied to the government's Housing Infrastructure Fund (HIF) for £94.6 million of forward funding grant support. This is for the delivery of key enabling infrastructure to unlock the delivery of 5000 homes on this land, including 1550 affordable homes. Under the terms of the HIF agreement, the £94.6m grant funding can be fully recovered and recycled by the Council for further investment in Milton Keynes. This decision is to affirm the Council's decision to accept this grant funding, supporting as it does, the principle of Infrastructure before Expansion.

1. Decisions to be made

- 1.1 That the £94.6 million of grant funding for Highways and Social Infrastructure to support Housing Delivery East of the M1 be accepted, subject to receipt and acceptance of the Grant Determination Agreement with Homes England.
- 1.2 That a 'Tariff 2' mechanism be developed for MK East site, in line with the requirement of the Milton Keynes East Development Framework Supplementary Planning Document adopted by the Council in March this year, to ensure Housing Infrastructure Fund grant monies and all other infrastructure contributions due from developers are recovered from the Development and reinvested in Milton Keynes.
- 1.3 That the Council's policy to reinvest land receipts from the sale of its land holdings within the allocated Milton Keynes East site into supporting infrastructure investment and housing delivery within Milton Keynes be confirmed.

2. Why is the decision needed?

- 2.1 In March 2019, the Council submitted a bid to Government for grant funding from the Housing Infrastructure Fund (HIF) for enabling infrastructure to support the delivery of the 'Site East of the M1', also known as MK East, to pay for the delivery of essential upfront infrastructure (highways, a new road bridge across the M1, a primary school and community health hub). A thorough due diligence process through Homes England followed shortly after the bid was submitted which confirmed that the Council's bid represented value for money for the public purse and provided significant longer term economic benefit.
- 2.2 Although a determination on the success of the bid was originally expected in May 2019, the Council was informed of its success in securing this investment offer in the Chancellor's March 2020 Budget announcement.
- 2.3 Although **not** required under the terms of the grant agreement, the Leader of the Council committed to seeking a formal decision on accepting the grant funding during the bid development process. This Delegated Decision reaffirms the Council's commitment to accept £94.6m of grant funding from the Government to be invested in forward funding infrastructure to support development of this site, which has been formally allocated in Plan MK, contingent on identifying and securing infrastructure funding.
- 2.4 The Council is making good progress on its aim to enter into the Grant Determination Agreement with Homes England by September to secure the funding, with discussions ongoing on the detailed terms of this Agreement.

3. Implications of the decision

3.1 This decision, if confirmed, is to accept the £94.6 million of grant forward funding for the delivery of key enabling infrastructure to support the delivery of 5,000 homes east of the M1, including 1,550 affordable homes, on which the Council will seek nomination rights. The grant funding has been secured on the principle of ensuring the delivery of necessary infrastructure ahead of the residential and commercial development on the expansion site. The table below shows indicative costs associated with each category of key infrastructure. The grant agreement will require the Council to secure delivery of the identified infrastructure.

| Infrastructure | Costings |
|--|-----------------|
| Three form entry Primary School and Community Health Hub | £15m |
| Bridges | £28.1m |
| Highways | £51.5m |
| Total grant funding | £94.6m |

3.2 The Site East of the M1 is allocated within Plan MK to come forward “once the necessary strategic infrastructure required to make the site deliverable is funded and is being delivered” (Plan:MK Policy SD12). Securing the HIF grant funding meets the first requirement of the Policy and allows the Council to progress to the delivery phase once planning permission is secured.

3.3 The terms of the agreement with Homes England allow the grant funding to be recovered and recycled by the Council through the Tariff 2 mechanism, providing the Council with the opportunity to recover £95m of grant funding to invest in further on-site and strategic infrastructure elsewhere in Milton Keynes as the MK East site is delivered.

3.4 MK East makes an important contribution to the Council meeting its identified housing need, with the site due to start delivering homes in 2023/24, as key existing expansion sites like the Eastern Expansion Area (Brooklands), which currently produce significant housing outputs, are near to completion. The MK East site is a planned development, helping to prevent unplanned developments elsewhere in the Borough (such as recent applications in Hanslope permitted on Appeal) which greatly impact communities and can often be located away from the necessary infrastructure to make them work well.

3.5 The Housing Infrastructure Fund represents an unprecedented opportunity to secure substantial infrastructure grant funding, which can be recovered and recycled both on MK East and elsewhere in Milton Keynes, and to secure delivery of a planned development site which will contribute significantly to the Council’s housing supply well beyond the Plan:MK period.

3.6 As with any major infrastructure projects, there are a number of risks to the Council to be considered:

- Losing HIF funding

The Housing Infrastructure Fund represents one of the largest grant funding opportunities for infrastructure to support housing of the last 30 years since the Development Corporation was wound up. The ability for the Council to fully recover and invest the funding onsite and elsewhere within the Borough to support infrastructure delivery means it will support the development of Milton Keynes for many years to come. Not taking the decision to accept the funding risks the Council losing this investment, the planned development not coming forward and a potential for unplanned development not supported by infrastructure to take its place.

- Cost overruns

Delivery of the Housing Infrastructure Fund Infrastructure is a significant and complex infrastructure project for the Council to undertake. Further work has been done on Infrastructure design since the development of the bid which may have an impact on costings. The Council and the Developers are required to put in place a strategy to cover any underspends or cost overruns on the HIF funded infrastructure as part of the Grant Agreement.

The risk associated with cost overruns is covered in section 4(a) of this report in further detail.

- Reputational risk

There would be reputational risk associated with the Council not accepting the HIF grant funding following the competitive process given the time invested in developing the bid with Homes England and the Ministry of Housing, Communities and Local Government. Reputational risks should also be a consideration in the unlikely event that the Council defaults on the legal agreement which secures the grant funding.

- Delivery

Whilst bid announcements from Government were made much later than anticipated, the delivery timescale for the infrastructure (by March 2024) remain the same. This means due to circumstances beyond the Council's control the delivery programme is much tighter, and whilst achievable will be challenging. This is explored in section 4(c) of this report in further detail.

4. Implications

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|-------------------|---|-------------------------------------|---|
| Financial | X | Human rights, equalities, diversity | |
| Legal | X | Policies or Council Plan | X |
| Communication | | Procurement | X |
| Energy Efficiency | | Workforce | |

a) Financial implications–

During the bid process the Council obtained a total of four detailed cost estimates for the highways elements of the HIF funded infrastructure. These estimates consistently put the base cost of the required infrastructure in the range of £52-57.5m. Where the cost estimates varied more significantly was in the level of contingency applied to the cost estimates, with the Council engaged consultants applying a 20% buffer, as opposed to the smaller margins applied by the developer’s consultants.

To address this the Council intends to allocate a proportion of the HIF funding to the highways elements being directly delivered by the Council on the existing highway using the cost estimates that allow a 20% contingency buffer.

Were the costs of infrastructure to be lower than those costed in the bid development process, all additional funding would remain with the Council as grant recipient and will in the first instance be applied to meeting cost overruns on other HIF infrastructure should these arise. Were any works delivered by the Developer to be delivered for less than their allocated funding, any cost underspend would again remain with the Council as the grant recipient. In the event of any overall underspend the money returned to the Council would be ring fenced to spent on infrastructure and housing.

The Council expects the Infrastructure funding costs to be met by the grant monies. Cost consultants are currently verifying the original cost assumptions submitted in the bid against the more detailed designs that have been worked up over the last year to progress the scheme since the bid was originally submitted.

Were this cost verification exercise to find the costs of infrastructure higher than those costed in the bid development, or there were un-forecast costs encountered during delivery, the Council would need to finance the additional cost in advance of capital receipts from the disposal of its land within the development site. This would be sufficient to cover any potential overruns. If the costs should exceed the grant allocation, temporary borrowing will be used to cover any timing differences from the land receipt and tariff monies.

The Developer is also required through the terms of the HIF grant funding to put in place a strategy to cover any potential cost overruns on the infrastructure being delivered through its contractors.

The terms of Tariff 2 (using S106 of the Town and Country Planning Act powers) are currently being negotiated with the Developers at MK East and will be agreed as part of the planning application process, in line with Plan:MK Policy INF1. In addition, 31% affordable housing will be secured across the development. The Tariff will address the impact of this development across the whole of Milton Keynes including capturing further investment for Milton Keynes Hospital, Higher and Further Education and others. At the time of the decision, early discussions have taken place with the developers on the Tariff, with the Heads of Terms on collaboration expected to be signed with the Developers ahead of entering into the Grant Determination Agreement with Homes England.

b) Legal implications

The Council has not yet received the draft Grant Determination Agreement from Homes England, but on receipt it will be carefully reviewed by the legal team.

Legal colleagues have received Heads of Terms for the agreement and the Homes England Assurance framework and will be providing legal advice to the HIF Programme Board in due course.

c) Other implications

Delivery implications-

Although announcements of successful schemes were delayed by Government, the timescales in which grant funding must be spent have not changed and require delivery by March 2024, meaning delays to the programme cannot be recovered. This creates significant challenges in delivering the full scheme on time, and whilst it remains demonstrably achievable, timely delivery will pose challenges for Council departments, most notably Highways, which is already resourcing to ensuring delivery of the scheme.

As part of the Grant Agreement, quarterly updates will be given to Homes England on spend, programme progress and milestone achievement and early discussion will take place through this process in the event of any projected milestone failures. The risk to the Council will lie in not delivering the infrastructure works for which the Council is taking responsibility (works on the existing highway and the social infrastructure elements) by the deadline of March 2024 and funding being withdrawn at that point. This would then require Tariff 2 funding being applied to this infrastructure reducing the amount of funding being available for recycling into further and wider infrastructure.

Procurement implications–

Delivery of the Infrastructure will be split between the Council and Berkeley Strategic.

It is currently proposed that the Council will be using its term contractor, Ringway to deliver the works on the existing highway for which it is taking responsibility and early engagement will take place through the Highways Team. Delivery of the Primary School and Community Health Hub are proposed to be led by the Council's Capital Development Team and will utilise a suitable procurement strategy to be agreed. The Council's Procurement Team will be liaised with throughout this process. It is envisaged that early engagement will commence on this procurement in early 2021 when the Outline planning application for MK East is submitted.

Berkeley are developing their procurement approach and taking legal advice to ensure it is OJEU and State Aid compliant.

5. Alternatives

- 5.1 **Not to accept grant funding** - Not accepting the grant funding will mean that the Council misses the opportunity to secure investment in the enabling infrastructure. This would also mean that the Council would be unable to recapture £94.6 million worth of investment in the city to be invested in future infrastructure schemes. There is likely to be reputational risk attached to the Council refusing to accept £94.6 million worth of Government funding in the city.

The site's allocation in Plan MK is contingent on the funding for the infrastructure being secured and the infrastructure being delivered, and the site would not come forwards until this condition is met.

6. Timetable for implementation

- 6.1 September 2020 – Expected date to sign the Grant Determination Agreement
- 6.2 March 2021 – Planning Application expected to be received on Infrastructure and Outline Planning Permission

List of annexes

Confidential in accordance with Section 4(2)(a) The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Annex A – Grant Conditions shared by MHCLG (to be circulated under separate cover)

Annex B - Grant conditions progress tracker (to be circulated under separate cover)

List of background papers

Background Paper A – [Plan MK](#)

Background Paper B – [Milton Keynes East Development Framework](#)