

Wiltshire Council

Cabinet

13 December 2022

Subject: Future Chippenham Update

Cabinet Member: Cllr Richard Clewer – Leader of the Council and Cabinet Member for Climate Change, MCI, Economic Development, Heritage, Arts, Tourism and Health & Wellbeing

Key Decision: Key

Executive Summary

This report provides an update on the progress of the Future Chippenham programme since the Cabinet decision in July 2022 to pause design work subject to reaching agreement on the revised Grant Determination Agreement (GDA) with Homes England. This report recommends the Council effecting a withdrawal from the Housing Infrastructure Fund (HIF) programme based on the mutually agreed exit from the GDA.

Proposal(s)

Cabinet is asked to:

1. Agree to the Council effecting a withdrawal from the HIF programme based on the mutually agreed exit from the Grant Determination Agreement with Homes England.
2. Agree to delegate authority to the Corporate Director of Resources/ Deputy Chief Executive in consultation with the Leader of the Council to finalise and enter into any documentation to give effect to the mutually agreed exit.
3. Subject to agreeing to withdrawal from the HIF programme Cabinet refers the recommendation to Full Council that the unfinanced costs for the programme are funded through future capital receipts.
4. Subject to agreeing a withdrawal from the HIF programme Cabinet recommends a budget allocation of £0.500m in 2023/24 to be funded by borrowing to support the work to promote the Council sites in the Local Plan review as part of the Council's Capital Programme budget setting process
5. Subject to withdrawal from the HIF programme, Cabinet agree to the removal of future HIF programme budgets funded by Grant.
6. Agree to continue to work with landowners to the South of Chippenham adjoining the Council's land holdings to achieve site allocations for the Council owned sites in the Local Plan review as part of an overall masterplan.

7. Agree to enter into a Legal Agreement to allow access to the Rawlings Farm development via the Council's land at Darcy Close and the cycleway.
8. Agree to delegate authority to the Corporate Director of Resources/Deputy Chief Executive in consultation with the Leader of the Council to enter into any such Legal Agreement regarding access to Rawlings Green.

Reason for Proposal(s)

Following Cabinet's decision in July 2022 to seek to negotiate an exit from the Grant Determination Agreement for HIF funding where a revised GDA with Homes England or the Local Plan review does not support the Future Chippenham programme proposals, discussions have been taking place with Homes England while design work on the programme has been paused.

A mutually agreed exit from the GDA that reflects the Cabinet decision of July 2022 has been agreed with Homes England and thus this report seeks Cabinet agreement for the Council to effect a withdrawal from the HIF programme based on the terms set out in paragraph 7 of the main report.

This report sets out an appraisal of the options available to the Council at this point in time solely in its capacity as a landowner, and is entirely separate from its role as the Local Planning Authority (LPA). Based on that appraisal it is recommended that the Council continues to work with adjoining landowners to the South of Chippenham to masterplan and promote the sites as part of the Local Plan review process.

To enable compliance by the developer of Rawlings Green of the conditions in relation to the access obligations contained within planning permission (15/12351/OUT).

Terence Herbert
Chief Executive

Wiltshire Council

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Purpose of Report

1. The purpose of the report is to seek authority to effect a withdrawal from the Housing Infrastructure Funding (HIF), programme based on the mutually agreed exit from the Grant Determination Agreement (GDA) with Homes England, that reflects the Cabinet decision of July 2022.

Relevance to the Council's Business Plan

2. The Future Chippenham Programme directly supports the Council's business plan to deliver vibrant well-connected communities.

Background

3. At its meeting on 21 July 2021 and following the outcome of public consultation, Cabinet agreed to seek a revision to the GDA with Homes England that provided HIF funding for the Future Chippenham programme. Cabinet agreed a preferred road route for a southern section and discussions took place with Homes England on a revised GDA whilst design work continued on that revised scheme with funding for that work incurred at risk. Despite ongoing discussions with Homes England, agreement on a revised GDA was not reached.
4. In July 2022, Cabinet reaffirmed its position on the South scheme and resolved to pause the Future Chippenham Programme while seeking to conclude a mutually agreed exit from the GDA. This was because any HIF funding would have to be defrayed within the HIF availability period, which runs until March 2025. To be able to achieve that timeline the Council would need to procure the road construction contract, archaeological investigations and progress with the masterplan, land assembly and consultation. The estimated costs of the southern distributor road exceeded the £75 million HIF funding contained in the original GDA and in addition the Local Plan review timeline has been delayed further. The work required to progress the programme would expose the Council to significant financial risk and it will not be possible to deliver the programme within the HIF availability period.

5. Pursuant to the July 2022 Cabinet decision, there are a number of options available to the Council in a scenario where Homes England would not provide grant funding for the revised Future Chippenham scheme. This report sets out to describe the options and seeks to at a high level, estimate the desirability, viability and feasibility for each option so that any recommendation(s) can be taken forward for additional investigative work.

Main Considerations for the Council

6. As reported previously, the financial risk to the Council of implementing the original GDA scheme or the revised southern only scheme is considerable. In addition, the current Local Plan review timetable means that the Council would now be unable to defray in full the HIF funding within the HIF availability period thus placing additional financial burden on the Council. Therefore, a mutually agreed exit from the GDA for the Council and Homes England has been established and the delegation sought will allow the Council to finalise and enter into any documentation to give effect to the exit agreement
7. Homes England have confirmed that, subject to the Council requesting a withdrawal from the GDA and HIF programme, the Council will not be required to repay the HIF funding of £6.413m (including capacity funding) claimed to October 2021. In addition, the Council will be able to claim £2.569m of the £5.139m that the Council incurred to continue working on the southern only scheme post July 2021. The Council incurred an additional £1.371m to acquire land from Wiltshire College and University Centre at the Lackham roundabout to safeguard potential access to the Council sites if they receive allocations as part of the Local Plan review. That asset remains in the Council's ownership and is not subject to the exit agreement as it was not funded by HIF monies.
8. The Council will have a balance forecast at £1.848m that will need to be financed due to withdrawing from the HIF programme. These costs reflect the internal project costs and external fees for the road and masterplan design, internal salary costs, legal fees (licences, landowner costs, compulsory purchase order), road ground investigations, communications and engagement and venue hire that took place over the last year that are over and above the approved £1.000m borrowing budget and Grant received and forecast to be received from Homes England. Subject to the use of that work to support a scheme if allocated as part of the Local Plan review those costs will likely not be abortive. Cabinet recommends to Full Council that these costs are funded from future capital receipts.
9. Subject to Cabinet agreeing the mutually agreed exit from the GDA, the Council has more discretion over the scheme it wishes to promote and the timeframe which will both be subject to the Local Plan review. The following table and subsequent narrative sets out a high-level options appraisal of the existing options available to the Council for its land holdings in the southern scheme. The options appraisal uses a ranking mechanism from 1 to 4 with 1 scoring low and 4 scoring high.

| Option | Costs to WC for scheme development | Level of development control by WC | Capital receipt to WC | Total |
|--|------------------------------------|------------------------------------|-----------------------|-------|
| Option 1: Do Nothing / Council Land banks | 4 | 2 | 1 | 7 |
| Option 2: Council explores alternative land use proposals on own Southern land | 1 | 4 | 2 | 7 |
| Option 3: Council sells some or all land at the Southern site, with no further involvement | 3 | 1 | 3 | 7 |
| Option 4: Council works with landowners to the South of Chippenham to achieve allocations in the Local Plan review | 2 | 3 | 4 | 9 |

10. **Option 1: Do Nothing / Council Land Banks.** The Council would not seek to progress any additional scheme design work / further develop its land South of Pewsham Way for the forthcoming Local Plan period.

11. This option has the least cost to the Council to progress and so is ranked highest for this criteria.

12. This option will not deliver any development in the short term and will not influence or secure site allocation or development subject to the Local Plan review, although it may offer some influence over site allocation and development in future plans. Therefore a lower score has been applied to this criteria.

13. It does not deliver a capital receipt therefore scored the lowest on this criteria.

14. Under this option the Council would continue to lease the land to farming tenants, thereby generating revenue and any costs already incurred and not funded by Homes England would need to be found from revenue as abortive costs.

15. **Option 2: Council explores alternative land use proposals on Southern land.** This option envisages the Council assessing what alternative uses could be appropriate for the land such as extending the country park, a solar farm or other. It would require the Council to fund the costs of developing options in its entirety which may not generate a capital receipt, or one that would make a significant impact on the repayment of costs already incurred. This is given the lowest score due to higher costs required.

16. The Council would have control over what was developed subject to Local Plan review and so scores highest in this criteria.

17. This option does raise the risk of the outstanding costs being abortive.
18. **Option 3: Council sells some or all land at the Southern site, with no further involvement.** This option envisages the Council selling the land with an overage clause for any development not reflected in the purchase price. It is anticipated that purchasers would include farmers, developers looking for Biodiversity Net Gain (BNG) Credits and those hoping to secure an allocation for development in the Local Plan.
19. The Council would incur the second least level of upfront investment in pursuing this option but would have little or no influence over the design of any development, subject to the Local Plan review. The option runs the risk of prejudicing master planning and infrastructure led development.
20. This option would deliver a capital receipt but a risk remains that development costs may be abortive and charged to revenue.
21. **Option 4: The Council works with landowners to the South of Chippenham adjoining the Council's land holdings to achieve site allocations in the Local Plan review as part of an overall masterplan.** Developing this option to the next stage will incur estimated costs to the Council of £0.500m subject to the extent of any information required by the LPA and thus is ranked accordingly.
22. Depending upon the nature of the mechanism for collaboration with the other landowners, the Council will have a reasonable amount of control over the design of the development, subject to the Local Plan review.
23. If an allocation for development under the Local Plan review is forthcoming, then the Council will receive a substantial capital receipt, subject to the costs of infrastructure, the number of homes allocated, any allocation conditions and the level of design control it wants to exert.
24. On the basis of the high-level ranking of options this option is recommended to be pursued at this point in time. If this option does not prove deliverable than the Council could fall back to option 3.

Overview and Scrutiny Engagement

25. Overview and scrutiny has been engaged with and a briefing is scheduled to take place prior to the Cabinet meeting.

Safeguarding Implications

26. There are no safeguarding implications at this stage

Public Health Implications

27. There are no public health implications at this stage

Procurement Implications

28. All procurement associated with the project will take place within the Council's procurement and commercial strategy and in conjunction with the Council's procurement team.
29. Whilst Cabinet considers the recommendations in this proposal, all intended procurement exercises have been paused to mitigate any potential reputational issues arising should prospective tenders need to be withdrawn from the market.

Equalities Impact of the Proposal

30. There are no direct equality impacts from this report. However, should the Future Chippenham programme not proceed, there is a potential risk that a reduced level of affordable housing being available in Chippenham with a lack of connectivity to the town centre and community infrastructure within the development area.

Environmental and Climate Change Considerations

31. As this report is to recommend effecting a withdrawal from the HIF programme based on the mutually agreed exit from the GDA, there are no direct environment or climate change considerations to be made at this stage. The Council will have full regard to all relevant environmental and climate change legislation and requirements in the Local Plan process as the project progresses. The project is cognisant that local planning policy may have requirements on how any development takes place and will, where required, comply with these.

Risks that may arise if the proposed decision and related work is not taken

32. If the Council continues the necessary work to progress the Future Chippenham programme without an agreed revised GDA and without agreeing a mutual exit from the GDA then it will expose itself to significant abortive work and financial risk, including the possible repayment of the entire HIF spend to date.
33. If the Council continues with the current GDA, the availability period for HIF funding to be defrayed by March 2025 would result in an unacceptable financial and programme risk in light of the Local Plan review timetable. The current GDA also commits the Council to delivering 7,500 homes, when Cabinet has already resolved to develop the South scheme due to land assembly and construction constraints.
34. If further design work on the scheme is halted, resulting updated representations to the Local Plan review may not meet the Local Plan

timetable. Similarly if design work on the proposed development ceases the Council's internal project costs and external fees that are subject to the use of that work to support a scheme if allocated as part of the Local Plan review may be abortive.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

35. The southern site may not be allocated in the forthcoming Local Plan review. To mitigate this the Council has agreed to work collaboratively with the southern landowners to enable the site to be masterplanned holistically, employing the process set out in the Government's Garden Communities Toolkit: <https://www.gov.uk/guidance/garden-communities/masterplanning>. If after collaboration with the southern landowners the allocation is not forthcoming, further mitigation for the Council would be to employ option 3 outlined in this report and sell part or all land holdings to the South of Chippenham.
36. Subject to further design work, if any infrastructure constraints or any planning conditions imposed on the southern allocation result in the scheme becoming unviable, mitigation for the Council would be to employ option 3 outlined in this report and sell part or all land holdings to the South of Chippenham.

Financial Implications

37. In delivering the Future Chippenham programme to date, the Council has committed a forecast spend of £11.984m. Based on the agreed exit strategy and existing approvals £9.136m of this can be financed by Grant and £1.000m can be financed by borrowing. Based on the current forecast this will leave a balance of £1.848m that needs to be financed. Under the recommended option 4 the costs can still be capitalised as the scheme is progressing and will deliver an asset. A substantial capital receipt is also forecast if an allocation for development under the Local Plan review is forthcoming. Cabinet and Full Council are therefore recommended to finance the balance of costs currently forecast at £1.848m from future capital receipts. The future years budgets funded by Grant will be removed from the programme.
38. If capital receipt is not received or at the level required the expenditure will be required to be funded by borrowing. This would require a report back to Cabinet for approval to set out the revenue implications.
39. Cabinet recommends to Full Council a budget allocation of £0.500m in 2023/24 to be funded by borrowing to support the work to promote the Council sites in the Local Plan review. The revenue implications of this will be circa £0.050m in 2024/25 and will need to be included in 2023/24 Budget setting process if approved.
40. In the event the programme does not progress a review would need to be undertaken on what has been delivered and whether the expenditure can still be classified as Capital. If delivery of an asset cannot be demonstrated the

costs become abortive and would transfer to revenue. This would require a report back to Cabinet.

Legal Implications

41. This report is providing an update on the progress of the Future Chippenham programme and representations provided on the Local Plan review since the Council decision in July 2021 to seek an amendment to the Grant Determination Agreement with Homes England to fund a programme to the south of Chippenham.
42. Leading Counsel's advice was sought on the Council's option to mutually agree an exit from the GDA.
43. Legal Services will continue to advise on the terms of the mutual exit from the GDA and any resulting implications for the Council. Whilst the terms of the mutual exit have been agreed in principle, it would be advisable for the detailed terms to be included in a legal document so that any contractual obligations are legally terminated.

Workforce Implications

44. There are no workforce implications at this stage.

Options Considered

45. The Council could do nothing with its land, not seeking to progress any additional scheme design work or further development. Although future scheme design costs would be minimal, the Council would not retain any influence on localised housing delivery subject to the Local Plan review, and there would be no capital receipt through land or housing sales. The Council may also be required to serve notice on Wiltshire College and University Centre that it has formally abandoned the project which would trigger commencement of the recovery of the advance payment on land at Lackham. Therefore, this option is not recommended.
46. The Council could explore alternative uses for its land, including commercial schemes. Further investigative work would be required to develop the options which the Council would need to fund. Although this may produce a capital receipt, it would likely result in a permanent change of use of the land meaning that it could not then be used for residential development in the future. The Council may also be required to serve notice on Wiltshire College and University Centre that it has formally abandoned the project which would trigger commencement of the recovery of the advance payment on land at Lackham. Therefore, this option is not recommended.
47. The Council could sell some or all of its land holdings in the South of Chippenham. Although future scheme design costs would be minimal, the Council would not retain any influence on localised housing delivery subject to

the Local Plan review. The Council would receive a capital receipt upon selling any land, with the potential for future capital receipts if additional land is sold or, assuming that the Council has imposed overage on the land it has sold. An overage obligation requires a buyer to make further payments, representing a share of the increased value of the land sold, after the occurrence of any agreed trigger event. The Council will not have any control over when a trigger will occur (if it occurs) so additional payments may not be guaranteed. The Council may also be required to serve notice on Wiltshire College and University Centre that it has formally abandoned the project which would trigger commencement of the recovery of the advance payment on land at Lackham. This option is not recommended, however should be considered as a fall-back option subject to further scheme design and the Local Plan review.

48. The Council as landowner could work with landowners to the South of Chippenham to achieve allocations in the Local Plan review. Although collaboration with landowners on scheme design will result in additional development costs to the Council, this option would support the promotion of the Council's land to influence the delivery of quality development as part of the Local Plan review. By working collaboratively with landowners to secure site allocations the Council will retain a degree of control and influence over any development, depending on the mechanism of collaboration and subject to any forthcoming allocation in the Local Plan review. The details of any collaboration agreement with landowners in the South would be reported to Cabinet for approval in 2023. If the Council is minded to support the promotion of its land to the South of Chippenham to secure quality development as part of the Local Plan review, then this option is recommended. If this option does not prove viable then the Council would fall back to support option 3.

Conclusions

49. Following the Cabinet's decision in July 2021 to seek a revision to the GDA with Homes England to support a southern only road route, and then in July 2022 to pause design work, discussions have been taking place with Homes England. The Council is now in a position to effect a withdrawal from the HIF programme based on the mutually agreed exit from the Grant Determination Agreement with HE.
50. In order to comply with Cabinet's resolution of July 2021 and July 2022 to promote the land to the South of Chippenham, authority is sought to agree to continue working with landowners adjoining the Council's land holdings to achieve site allocations as part of a master-planned approach for the forthcoming Local Plan review.
51. Subject to agreeing to withdrawal from the HIF programme Cabinet recommends to Full Council that the unfinanced costs for the programme are funded through future capital receipts.
52. A capital allocation of £0.500m is sought in the Council's 2023/24 Capital Programme to progress the work to promote the Council's site as part of the Local Plan review.

53. The full proposals are set out in the summary section at the front of this report.

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Appendices

None

Background Papers

The following documents have been relied on in the preparation of this report:

None