

Crawley Borough Council

Report to Overview and Scrutiny Commission 24th June 2019

Report to Cabinet 26th June 2019

Housing Infrastructure Fund (HIF) Agreements

Report of the Head of Strategic Housing – SHAP/78

1. Purpose

- 1.1 The Council has been successful in having two schemes approved by Homes England to receive up to £6.4m in grant funding from the Housing Infrastructure Fund (HIF). After a lengthy administrative process the Council is reaching the point of needing to enter into the funding agreement with Homes England and as such approval is sought for receipt of funding subject to terms and conditions.
- 1.2 Delegated authority is being sought to permit Officers to finalise the terms of the grant funding and to enter into the Grant Determination Agreement (GDA) with Homes England, and other associated agreements as may be necessary to meet the grant funding conditions, if the terms are to Council's satisfaction.

2. Recommendations

- 2.1 To the Overview and Scrutiny Commission:

- 2.1.1 That the Commission consider the report and decide what comments, if any, it wishes to submit to the Cabinet.

- 2.2 To the Cabinet

- 2.2.1 The Cabinet is recommended to:

Delegate authority to the Head of Strategic Housing Services and the Head of Corporate Finance in consultation with the Cabinet Member for Housing, to enter into the necessary agreements with respect to the Housing Infrastructure Fund approved for Forge Wood and Telford Place, if on satisfactory terms to the Council (*Generic Delegation 7 will be used to enact this recommendation*).

- 2.2.2 That Cabinet requests that Full Council:

Approve an amended supplementary capital estimate of up to £6,423,280 (£4,423,280 and £2,000,000), funded from the Housing Infrastructure Fund as outlined in paragraph 3.2.

3. Reasons for the Recommendation

- 3.1 The Housing Infrastructure Fund is grant funding awarded to the Council by Homes England to provide the infrastructure required to unlock housing development. The funding is subject to the Council meeting specified conditions and obligations, including contracting with developers to deliver the infrastructure as well as delivering the 'unlocked' housing.
- 3.2 The value of the grant funding to be received across both schemes amounts to £6,423,280 (£4,423,280 and £2,000,000), and for reasons of State Aid compliance the terms of the funding comes with arrangements to claw-back any added surplus emerging from each respective scheme against the projected cash-flows.
- 3.3 The Council will have an obligation to 'ring-fence' any claw-back that may be received for recycling back into housing delivery in the borough. These claw-back arrangements are still in the process of being finalised with Homes England.
- 3.4 Due to the value of the funding involved, and the associated obligations, Officers require delegated authority to enter into the necessary agreements.

4. Background

- 4.1 Homes England invited bids for potential housing schemes with marginal viability due to the costs of providing infrastructure, and the Council secured approval for Forge Wood Phases 2B and 2C due to the costs of providing an acoustic barrier, as well as for Telford Place due to the added costs of providing new highways access, and carrying out site decontamination and public realm works.
- 4.2 The approved funding is based on the obligation to deliver the infrastructure as well as the subsequent housing, and is subject to satisfying Homes England's pre-contract conditions, which has been achieved, followed by satisfying necessary pre-funding conditions, with the respective commitments only coming into force upon drawing-down of the grant funding.
- 4.3 Due to public money going into private developments in this way, the structure and terms of the funding is required to be State Aid compliant, meaning the grant is effectively awarded to the Council, and the Council carries the State Aid risk of providing this funding to the respective schemes.
- 4.4 For this reason the terms of the grant funding requires any 'surplus' coming out of each respective scheme to be 'clawed-back' by the Council as a public body, up to the value of the HIF funding provided, and to be 'ring-fenced' for recycling back into housing delivery in the borough.
- 4.5 The value of the surplus is identified against the respective scheme cash-flows that have been submitted as part of the bidding process. Any improvement to scheme viability through increased income and/or reduced costs will manifest as surplus, and this will be received by the Council as claw-back for recycling into housing.
- 4.6 The recycled claw-back is expected to be 'ring-fenced' for the purposes of housing delivery in the broadest sense, not necessarily limited to affordable housing, which can include land acquisition, property acquisition, infrastructure provision to unlock housing, or direct build, and there is no defined time-limit in spending this claw-back.

5. Description of Issue to be resolved

- 5.1 Entering into the Grant Determination Agreement with Homes England does not expose the Council to any commitment at this initial stage, and it is only at the point of drawing down the grant funding that the commitment will come into effect.
- 5.2 The Council has utilised independent legal advice in the drafting of the respective legal agreements including seeking State Aid advice to ensure that both schemes are in line with Market Economic Operating Principles, making them both State Aid compliant.
- 5.3 At Forge Wood the Council will be required to enter into agreement with the developers and Homes England (as land-owner) to agree the terms of the claw-back before entering into the Grant Determination Agreement with Homes England (as funder) for £4,423,280 in HIF funding. This HIF allocation must be spent by 31st March 2021.
- 5.4 As the procurement process for a developer partner for Telford Place is still underway, the Council will be required to have secured the developer partner in agreement with the terms of the grant funding before the £2,000,000 in HIF funding can be drawn down. This HIF allocation must be spent by 31st March 2022.
- 5.5 The 'ring-fencing' of any surplus capital received by the Council, for the purposes of facilitating the provision of housing in the borough, will remain Council's contractual obligation into future years.

6. Information & Analysis Supporting Recommendation

- 6.1 Due to the value of the grant to be received, and the consequent obligation to recover up to the same value if the schemes viabilities improve to that extent, with restrictions on the future use of these funds in future years, Officers require delegated authority to enter into such terms with Homes England and the respective developer partners.

7. Implications

- 7.1 The Council has a unique opportunity to secure external grant funding, without which the two schemes mentioned will in all probability remain unviable and prove challenging to deliver due to the costs associated with providing the necessary infrastructure.
- 7.2 The financial implications are mostly concerned with external legal costs, which are being borne by each respective scheme as an acceptable cost within the available scheme budgets. Telford Place costs will be picked up within Council's approved scheme budget, while the developers at Forge Wood will cover their own costs through that scheme budget.
- 7.3 The staffing implications can be met within existing resources within Strategic Housing, Corporate Finance, and Partnership Services.
- 7.4 Legal implications are contained within the terms of the Grant Determination Agreement, which is based on satisfying the funding criteria, and any un-remedied breach would place the funding at risk. External legal consultants have been

appointed to protect the Council's interests on all aspects concerned with this funding arrangement.

8. Background Papers

None

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