

# Cabinet – Supplementary agenda No. 2

A meeting of the Cabinet will be held on:

**Date:** 21 December 2010

**Time:** 3.00pm

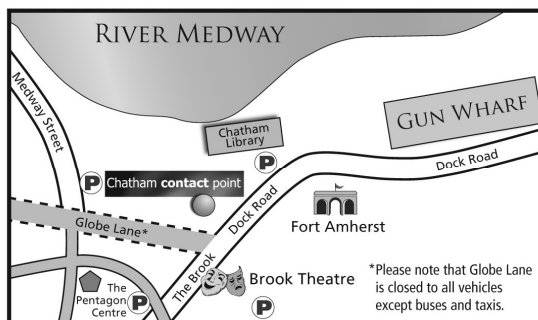
**Venue:** Meeting Room 2 - Level 3, Gun Wharf, Dock Road, Chatham ME4 4TR

## Items

- |     |  |                 |
|-----|--|-----------------|
| 11. | Rochester Riverside Phase 1A - Grant of Lease(s)                       | (Pages 1 - 8)   |
| 12. | Rochester Riverside Phase 1A - Funding and Provision of Infrastructure | (Pages 9 - 16)  |
| 17. | Exclusion of the Press and Public                                      | (Pages 17 - 20) |

For further information please contact Wayne Hemingway/Anthony Law, Cabinet Coordinators on Telephone: 01634 332509/332008 or Email: [democratic.services@medway.gov.uk](mailto:democratic.services@medway.gov.uk)

**Date: 14 December 2010**



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## **CABINET**

**21 DECEMBER 2010**

### **ROCHESTER RIVERSIDE PHASE 1A GRANT OF LEASE(S)**

Portfolio Holder: Councillor Rodney Chambers, Leader

Report from: Robin Cooper, Director of Regeneration, Community and Culture

Author: Sarah Beck, Principal Regeneration Manager

#### **Summary**

Cabinet Members are asked to consider a proposal to grant a lease or leases at Rochester Riverside Phase 1A in light of the exclusivity agreement having lapsed with developer Crest Nicholson. The proposal is to allow Hyde Housing Group to develop part of Phase 1A. Hyde have indicated their desire to carry out at their initiative direct development of the first three (mainly) affordable housing blocks. This would secure the £4.6m Homes & Communities Agency's (HCA) affordable housing grant which must be drawn down before the end of March 2011.

#### **1. Budget and Policy Framework**

- 1.1 Rochester Riverside is a high profile regeneration project within Medway and is of strategic importance within the Thames Gateway. The development of Rochester Riverside is identified within the Council Plan 2010-2013 and fits within the Council's strategic priority of everyone benefiting from the area's regeneration. The progression of Rochester Riverside will see the construction of the first new homes on the site including affordable homes and will contribute to the relevant LAA targets (NI154 and 155).
- 1.2 Cabinet Members are asked approve the proposal to grant a lease or leases to Hyde Housing Group as set out below.
- 1.3 The Rochester Riverside site is jointly owned and managed by Medway Council and SEEDA. There is a formal Collaboration Agreement between the two organisations, which sets out the project's decision-making process; this is managed by the Rochester Riverside Board. The Board considered the matter of the Hyde proposal on 7 December 2010.
- 1.4 The Cabinet is asked to accept this as an urgent item to enable officers to progress the proposals at the earliest opportunity.

## **2. Background**

- 2.1 In October 2009 the Council and its partner SEEDA, entered into an Exclusivity Agreement (EA) with Crest Nicholson Regeneration Ltd (CNR) for Phase 1 of Rochester Riverside. Although intensive negotiations over the past year resulted in approval for the design of the first 161 homes the parties have been unable to agree satisfactory commercial terms and the EA expired on 22 November 2010. The Council and SEEDA have an obligation to ensure any commercial deal is in the public interest and is best value. The ongoing impact of the economic recession and its effect on house building has meant that the parties have been unable to reach a satisfactory agreement and therefore the decision was made not to renew the EA with CNR.
- 2.2 Since the EA with Crest Nicholson Regeneration Ltd (CNR) expired, officers have considered how to preserve the majority of the £4.6m HCA affordable housing grant which will be lost if it cannot be drawn down during 2010/11. Hyde Housing Group were CNR's affordable housing partner and in 2009 secured an offer of £4.6m affordable housing grant from the HCA for the scheme. They have been closely involved in the project since the Council first selected CNR in 2008. Hyde have now expressed an interest in undertaking their own direct development of the three main affordable housing blocks in Phase 1A Part I and have written to the Council setting out their proposal which is explained in more detail below.
- 2.3 Under this proposal Medway Council would grant Hyde a long lease or leases of part of the Phase 1 site within the area shown edged back on the attached plan. The Council, as landowner, would not specify the type of development Hyde could construct on the site, but Hyde will be constrained by the Outline Planning Permission and the HCA grant conditions. Hyde will apply for a new reserved matters planning permission for their scheme and then procure and construct the development. Discussions with Hyde are at an early stage but they have indicated that their development is likely to consist of (subject to design and planning approval):
- 40 Extra Care Units
  - 32 shared ownership units
  - Small elements of commercial uses.
- 2.4 Discussions with the HCA indicate that they are supportive of the proposal. In order to secure the grant the HCA require that Hyde have an interest in the land, secure planning permission and let a building contract by the end of March 2011. This is a tight timescale but is achievable.
- 2.5 Subject to Cabinet approval, officers will start to work on the proposed land disposal. Costs associated with the proposal in 2010/11 will be met from existing Rochester Riverside budgets including SEEDA's budget for the project.

## **3. Options**

- 3.1 Officers have identified four options to progress development on Rochester Riverside. Each option is detailed below.

- a. Progress option with Hyde Housing Group. Progressing the option set out above with Hyde Housing Group will enable the majority of the HCA affordable housing grant to be drawn down by March 2011. Assuming the grant is drawn down by 31 March 2011 then a construction start of September 2011 with some infrastructure works possibly commencing earlier is planned thereby securing activity on the site in the near future. If the draw down date cannot be achieved by 31 March 2011 then the grant may be at risk.
- b. Select another developer partner: Procurement of a new developer under the terms of a development agreement specifying works would need to be in accordance with EU procurement procedures and Council procedures and would take some time to complete. In the meantime the HCA grant would be lost and there would be little opportunity for development activity in the near future.
- c. Sell the land to another third party: an outright sale (including by way of grant of lease) of land is not subject to EU procurement procedures and so theoretically could be completed more quickly than option b should the Council elect to dispose of the site via this route. However, no other prospective purchaser has Hyde's knowledge of and involvement with the site. This would mean that a sale by way of marketing of the site would take longer and the HCA grant would likely be lost, potentially making any development of the site at this time uneconomic.
- d. Do nothing: The Council could leave the site until the housing market has recovered from the economic downturn. The HCA grant would be lost and there would be no opportunity for development activity in the near future.

#### 4. Advice and analysis

- 4.1 If the affordable housing grant is to be secured and development achieved at Rochester Riverside in the near future then progressing the option with Hyde is preferable.

#### 5. Risk management

- 5.1 The risk analysis is set out below.

Risk	Description	Action to avoid or mitigate risk
Reserved Matters Planning Approval	A requirement of drawing down the HCA grant is that Hyde secure their own reserved matters planning permission with a signed S106 by end of March 2011. Failure to do so will result in loss of the HCA grant <b>This risk is rated – C1 (significant probability, 'showstopping' impact)</b>	<ul style="list-style-type: none"> <li>▪ Application submitted by 31 Jan at the latest.</li> <li>▪ Application validated as soon as submitted</li> <li>▪ Regular meetings with Development Management.</li> </ul>
Grant of lease	A requirement of drawing down the HCA grant is that Hyde have a legal interest in the land by end of March	<ul style="list-style-type: none"> <li>▪ Regular liaison with Hyde and MC solicitors</li> </ul>

HCA grant	<p>2011. Failure to do so will result in loss of the HCA grant <b>This risk is rated – D1 (low probability)</b></p> <p>If an agreement with Hyde cannot be reached in the time frame then the HCA grant cannot be drawn down and the £4.6m funding will be lost. <b>This risk is D2 (critical impact)</b></p>	<ul style="list-style-type: none"> <li>▪ Regular liaison with HCA to provide assurances that the timetable will be met</li> </ul>
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## 6. Consultation

- 6.1 The proposal from Hyde Housing Group has been presented to the Rochester Riverside Project Board on 7 December.
- 6.2 There was considerable public and stakeholder consultation regarding the CNR proposals and this has led to an expectation that development will start at Rochester Riverside. While the Hyde proposal is smaller and will be different it will still begin to meet these expectations.

## 7. Financial and legal implications

- 7.1 In selling or leasing land for a period in excess of 7 years the Council has a duty under s123 of the Local Government Act 1972 and s233 of the Town & Country Planning Act 1990 to obtain the best consideration that can be reasonably obtained. The Council has the power under s24 of the Local Government Act 1988 and the general consents issued by the government under section 25 of that Act to provide a registered social landlord with any financial assistance or any gratuitous benefit consisting of the disposal to that registered social landlord of land for development as housing accommodation or as housing accommodation and other facilities which are intended to benefit mainly the occupiers of the housing accommodation. However, it is intended that any lease(s) to Hyde be granted at the best consideration that can be reasonably obtained. Further details are set out in the exempt appendix.

## 8. Recommendation

- 8.1 Cabinet is asked to grant delegated authority to the Chief Executive in consultation with the Leader to grant a lease or leases and any necessary preliminary agreements, of or relating to part of Phase 1A of Rochester Riverside within the area as shown edged black on the attached plan, together with any associated rights, for a term of not exceeding 999 years to a company or companies within the Hyde Housing Group on the best terms reasonably achievable.

## 9. Suggested reasons for decision(s)

- 9.1 The decision is intended to lead to protection of the £4.6m HCA affordable housing grant for Rochester Riverside and is in line with the Council's priorities for delivering development on its flagship regeneration site.

**Lead officer contact**

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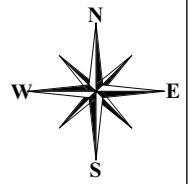
**Background papers**

None

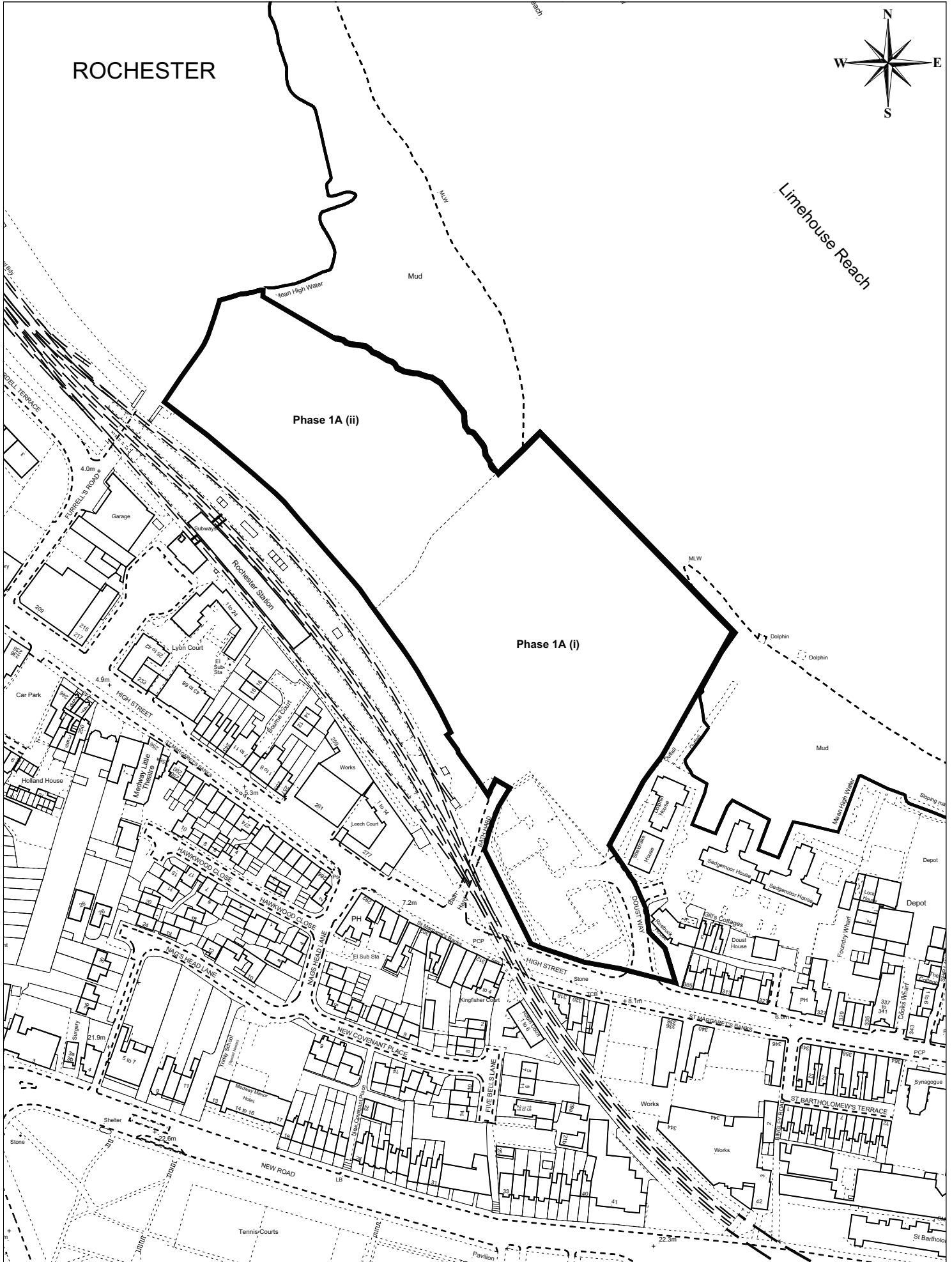




ROCHESTER



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# Rochester Riverside - Phase 1A



Scale: NTS 7 07/12/10

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## **CABINET**

**21 DECEMBER 2010**

### **ROCHESTER RIVERSIDE PHASE 1A FUNDING & PROVISION OF INFRASTRUCTURE**

Portfolio Holder: Councillor Rodney Chambers, Leader

Report from: Robin Cooper, Director of Regeneration, Community and Culture

Author: Sarah Beck, Principal Regeneration Manager

#### **Summary**

Cabinet Members are asked to recommend an addition to the Council's 2011/12 Capital Programme in order to progress development at Rochester Riverside.

#### **1. Budget and Policy Framework**

- 1.1 Rochester Riverside is a high profile regeneration project within Medway and is of strategic importance within the Thames Gateway. The development of Rochester Riverside is identified within the Council Plan 2010-2013 and fits within the Council strategic priority of everyone benefiting from the area's regeneration.
- 1.2 Cabinet is asked to recommend a new addition of £2.5m to the 2011/12 Capital Programme with the funding to be met from borrowing and recouped in the future from land sales at Rochester Riverside. This decision partly relates to the proposal from Hyde Housing Group which is the subject of a separate Cabinet report on the agenda, but will also increase the sites residual land value and marketability and value of subsequent phases.
- 1.3 Subject to Cabinet approval, the sum of £2.5m will be submitted for Council on 13 January 2011 as additions to the capital programme are a matter for Full Council.
- 1.4 The Rochester Riverside site is jointly owned and managed by Medway Council and SEEDA. There is a formal Collaboration Agreement between the two organisations, which sets out the project's decision-making process; this is managed by the Rochester Riverside Board. The Board considered the matter of the future development activity on 7 December 2010.

- 1.5 The Cabinet is asked to accept this as an urgent item to enable Full Council, on 13 January 2011, to give consideration to approving the scheme as an addition to the Capital Programme 2011/2012.

## **2. Background**

- 2.1 In October 2009 the Council and its partner SEEDA, entered into an Exclusivity Agreement (EA) with Crest Nicholson Regeneration Ltd (CNR) for Phase 1 of Rochester Riverside. Although intensive negotiations over the past year resulted in approval for the design of the first 161 homes the parties have been unable to agree satisfactory commercial terms and the EA expired on 22 November 2010. The Council and SEEDA have an obligation to ensure any commercial deal is in the public interest and is best value. The ongoing impact of the economic recession and its effect on house building has meant that the parties have been unable to reach a satisfactory agreement and therefore the decision was made not to renew the exclusivity agreement with CNR.
- 2.2 Since the EA with Crest Nicholson Regeneration Ltd (CNR) expired, officers have considered how to enable development on the site and how to preserve the majority of the £4.6m HCA affordable housing grant which will be lost if it cannot be drawn down during 2010/11. Hyde Housing Group were CNR's affordable housing partner and in 2009 secured an offer of £4.6m affordable housing grant from the HCA from the scheme. They have been closely involved in the project since the Council first selected CNR in 2008. Hyde have now expressed an interest in undertaking their own direct development of the three main affordable housing blocks in Phase 1A Part I and have written to the Council setting out their proposal which is the subject of a separate Cabinet report on this agenda. This report is in part related to that proposal but the matters included here require separate consideration and stand alone as even if the Hyde proposal does not proceed, there is benefit in carrying out works to further derisk Rochester Riverside and recoup additional value in the future.
- 2.3 A new road, services and infrastructure are required to service the Rochester Riverside site. It is proposed that the Council would meet these costs of c£2.5m from its 2011/12 capital programme and procure the construction of such works. By doing so the Council will be facilitating delivery of affordable housing on the site and also derisking the remainder of the phase for future developers. This will add value to the site and the Council would subsequently be able to sell part of the site with benefit of the road and affordable housing. The Council will seek to agree with SEEDA, DCLG and HCA satisfactory terms to enable the £2.5m investment to be recouped by the Council, which may require amendments to the collaboration agreement and funding agreement. The exempt appendix contains an illustration of how the investment can be recouped in the event that SEEDA, DCLG and HCA agree that the Council can recoup the £2.5m as a priority return on future sales in phase 1.
- 2.4 The costs of the first part of any regeneration site tend to be disproportionately high. This is usually due to the need to upgrade off site infrastructure and due to the provision of new services. This is the case at Rochester Riverside where it is intended to provide sufficient capacity in the services and road to support future development on the majority of Phase 1.

2.5 The elements of work included in the budget estimate of £2.5m are as follows:

- New road design and construction to serve Phase 1A (i) up to the boundary of Phase 1A (ii) (The phasing is shown on the attached plan)
- S278 works (alterations to existing highways)
- Doust Way junction
- Doust way student access
- Doust Way car park alterations
- Southern Gateway square
- Off site services
- On site services incl. sub station
- Sundry service media
- Relevant hard and soft landscaping
- Design fees
- Contractor fees.

2.6 Subject to Cabinet approval, officers will start to work on the design and procurement of the details in order to then select and appoint a contractor in accordance with the Council's procedures. Costs associated with the proposal in 2010/11 will be met from existing Rochester Riverside budgets including SEEDA's budget for the project.

### 3. Options

3.1 Officers have identified four options to progress development on Rochester Riverside. Each option is detailed below.

- a. Fund the road, services and infrastructure: this will derisk the site for future developers and enable Hyde Housing Group to drawdown and utilise the HCA grant which they have secured for Rochester Riverside. Subject to the proviso set out in paragraph 2.3 above, it is expected that the capital costs can be recouped by future land sales at Rochester Riverside, which will benefit from the works undertaken under this proposal.
- b. Secure alternative funding for the road, services and infrastructure: there are few sources of funding currently available, those that are, including EU funds, take considerable time to secure. Delays will jeopardise the use of the HCA grant.
- c. Select a developer partner who could forward fund the works: the expiry of exclusive negotiations with Crest Nicholson is partly a reflection of the difficulties developers are facing in the current economic climate. Abnormal and infrastructure costs make regeneration schemes financially problematic and it is unlikely another developer could currently forward fund these works. In addition, procurement of a new developer would need to be in accordance with EU procurement law and Council procedures and would take some time to complete. In the meantime the HCA grant would be lost and there would be little opportunity for development activity in the near future.
- d. Do nothing: The Council could leave the site until the housing market has recovered from the economic downturn. The £4.6m HCA grant would be

lost and there would be no opportunity for development activity in the near future.

#### 4. Advice and analysis

4.1 An addition to the 2011/12 capital programme is required if the Council is to fund and deliver the road, services and infrastructure to service new homes and to derisk part of Phase 1 of Rochester Riverside.

#### 5. Risk management

5.1 The risk analysis is set out below.

Risk	Description	Action to avoid or mitigate risk
Reserved Matters Planning Approval	<p>A detailed reserved matters planning permission is required by end of March 2011 to include the road alignment and other infrastructure elements. Failure to do so will result in loss of the HCA grant</p> <p><b>This risk is rated – C1 (significant probability, ‘showstopping’ impact)</b></p>	<ul style="list-style-type: none"> <li>▪ Application submitted by 31 Jan at the latest.</li> <li>▪ Application validated as soon as submitted</li> <li>▪ Regular meetings with Development Management.</li> </ul>
Funding and Provision of new road and infrastructure	<p>Hyde are risking costs associated with planning and construction and require comfort that the new road and infrastructure will be funded, procured and provided by the Council. Failure to comply with this requirement will jeopardise the Hyde proposal and the HCA grant</p> <p><b>This risk is rated – D1 (low probability)</b></p>	<ul style="list-style-type: none"> <li>▪ £2.3m be included within the 2011/12 Council Capital Programme.</li> <li>▪ A robust procurement timetable is in place.</li> <li>▪ Regular liaison with Hyde to give assurances that the timetable will be met.</li> </ul>
Costs	<p>There is a risk that costs will escalate and/or that the budget estimate is insufficient</p> <p><b>This risk is D2 (critical impact)</b></p>	<ul style="list-style-type: none"> <li>• Robust design and cost management processes to be put in place</li> </ul>

#### 6. Consultation

6.1 The proposal has been presented to the Rochester Riverside Project Board on 7 December.

6.2 There was considerable public and stakeholder consultation regarding the CNR proposals and this has led to an expectation that development will start at Rochester Riverside. Constructing the road and other associated works will begin to meet these expectations.

## **7. Financial and legal implications**

- 7.1 The scheme is estimated to cost £2.5m and this will need to be treated as an addition to the Council's Capital Programme and reported to Full Council on 13 January 2011. The revenue effect of this borrowing is estimated at some £62,500 per annum.
- 7.2 The legal implications are contained in the body of this report.

## **8. Recommendations**

- 8.1 Cabinet is asked to recommend to Full Council that a sum of £2.5m be included in the 2011/2012 Capital Programme and delegate authority to the Chief Finance Officer, in consultation with the Portfolio Holder for Finance and Deputy Leader, to proceed with the prudential borrowing subject to reaching satisfactory agreement with SEEDA and DCLG as to recovering of the funding from future sales on Rochester Riverside.
- 8.2 Cabinet is asked to delegate authority to Assistant Director, Housing and Corporate Services, in consultation with the Portfolio Holder for Finance and Deputy Leader, authority to enter into any legal agreements required to ensure the recovery of the £2.5m funding.

## **9. Suggested reasons for decision(s)**

- 9.1 The decision will further derisk the site and see development activity at Rochester Riverside and is line with the Council's priorities for delivering development on its flagship regeneration site. It will also help protect the £4.6m HCA affordable housing grant for Rochester Riverside.

### **Lead officer contact**

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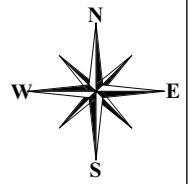
### **Background papers**

None

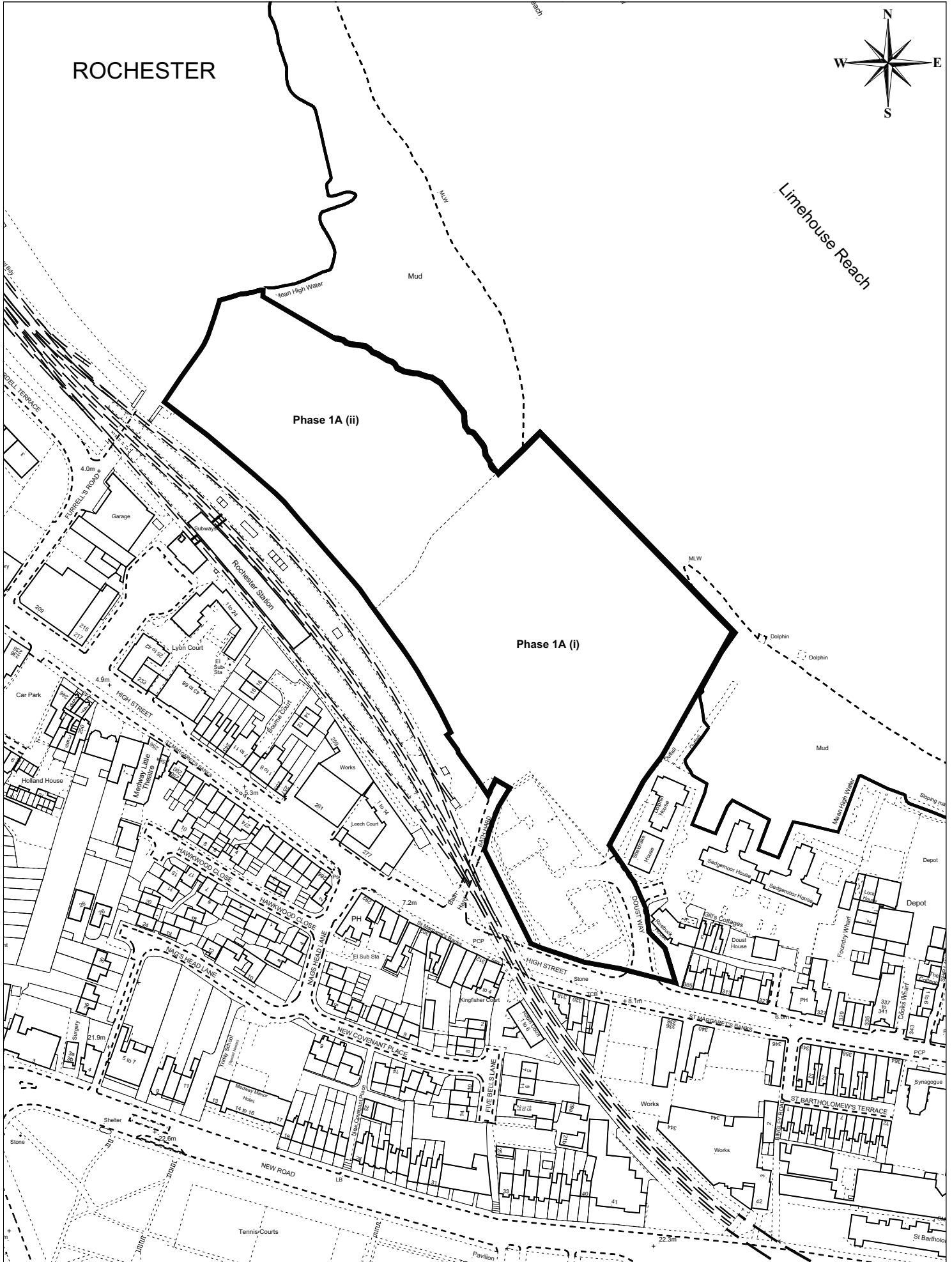




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# Rochester Riverside - Phase 1A



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