

## **CABINET**

**13 JULY 2021**

### **HOUSING INFRASTRUCTURE FUND: NEW ROUTES TO GOOD GROWTH – DEED OF VARIATION TO GRANT DETERMINATION AGREEMENT**

Portfolio Holder: Councillor Alan Jarrett, Leader of the Council

Report from: Richard Hicks, Director of Place and Deputy Chief Executive

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#### **Summary**

This report asks Cabinet to agree to entering into a Deed of Variation to amend the Housing Infrastructure Fund (HIF) Grant Determination Agreement (GDA). Delegated Authority to sign the GDA was granted, by Cabinet on 7 April 2020 [Decision No. 47/2020 refers], to the Director of Place and Deputy Chief Executive in consultation with the Leader of the Council, Chief Finance Officer and Assistant Director Legal & Governance. The current proposed Deed of Variation encompasses changes to specific wording within the contract required by Homes England (HE), as well as changes to milestones within the GDA requested by the Council.

In conjunction with the Deed of Variation, Cabinet is asked to delegate authority for any further Deeds of Variation required of a similar nature, to the Director of Place and Deputy Chief Executive in consultation with the Leader of the Council, Chief Finance Officer and Assistant Director Legal & Governance, for a period of 12 months. Similar Deeds of Variation within this timeframe would include any further changes to milestones necessary for the programme and any further administrative changes to wording within the GDA that may be required by HE. Delegated authority would ensure that timely decisions can be made with HE, so that HIF grant funding claims are not delayed. After the 12 month period, decisions would return to Cabinet for approval.

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

- 1.1 The decisions in this report are within the Council's policy and budget framework and are for Cabinet determination.

## 2. Background

- 2.1 Medway Council submitted an expression of interest to the Ministry of Housing, Communities and Local Government (MHCLG) for the HIF New Routes to Good Growth project in September 2017. The scheme aims to unlock potential new development on the Hoo Peninsula of up to 12,100 new homes by 2043, and to strengthen the area's economy through development of commercial space at Kingsnorth and Grain. The Council submitted the business case for the scheme to MHCLG in March 2019. In November 2019, MHCLG announced a successful funding award for the Council's HIF scheme. In February 2020, £170m was added to the Council's capital programme in anticipation of receipt of funding. Several conditions attached to the receipt of funding were agreed with MHCLG and Homes England, and in July 2020 the £170m HIF GDA was signed by both MHCLG and the Council.
- 2.2 Homes England require changes to specific wording within the GDA, and the Council requires changes to current project milestones within the GDA. The proposed changes are set out in Appendix 1 (exempt). These changes have been agreed with Homes England and Cabinet approval is required to enable the Council to formally alter the GDA, via a Deed of Variation to the contract.

## 3. Options

- 3.1 There are two principal options:

Option 1: The Council enters into the Deed of Variation to alter wording and milestones in the GDA, in line with the proposed changes agreed with Homes England, as set out in Appendix 1 (exempt).

Option 2: The Council declines entering into the proposed Deed of Variation with Homes England.

## 4. Advice and Analysis

- 4.1 Option 1 is the only approach that will continue to unlock the allocated £170m HIF investment in the Hoo peninsula. Option 1 will enable the Council to continue to submit grant funding claims to HE to draw down funding for the HIF scheme, as per the GDA. As such, it is the recommended option.
- 4.2 It is also proposed to seek delegated authority to the Director of Place and Deputy Chief Executive, in consultation with the Leader of the Council, Chief Finance Officer and Assistant Director Legal & Governance to make the relevant changes, should any similar Deeds of Variation be required. Examples of this include new milestone dates (that do not affect the overall programme end date), or any minor administrative changes to wording or points of clarification within the GDA. Any use of this delegated authority will be published as an officer executive decision. Should any particular Deeds of Variation be considered to be key decisions, they will be reported to Cabinet for decision. These relate to executive matters within the GDA only. Any

changes to the non-executive matters within the GDA will require decision by Full Council.

## 5. Risk Management

- 5.1 There are no risks associated with entering into the Deed of Variation with HE to the HIF GDA, as the changes have been agreed with HE and support both the Council and HE. The risks associated with not entering into the Deed of Variation are as follows:

Risk	Description	Action to avoid or mitigate risk	Risk Rating
MHCLG withdrawal of HIF investment, and consequent detrimental impact on sustainable housing delivery on the Hoo Peninsula.	If the changes proposed in the Deed of Variation to the GDA are not made, the Council would not be able to fulfil its obligations under the current terms of the GDA. Therefore, MHCLG could withdraw the HIF investment. Without funding, the HIF programme of improvements may not be delivered, and this would have a detrimental impact on the sustainable future housing delivery on the Hoo Peninsula.	In order to avoid the risk of MHCLG withdrawing HIF investment, the proposed changes required by both HE and Medway have been agreed with HE. The changes require approval by Cabinet to formalise via the Deed of Variation to the HIF GDA.	B2

## 6. Financial Implications

- 6.1 There are legal costs associated with the preparation, formal signing and sealing of the Deed of Variation to the HIF GDA. These costs will be negligible (circa £2,000) and as some of the changes required are proposed by Homes England, it has committed to funding half of the legal costs associated with this Deed of Variation. The Council's share can be met from the HIF project delivery budget.

## 7. Legal Implications

- 7.1 The HIF GDA, and any Deed of Variation to the contract, represent a legal binding agreement between MHCLG and Medway Council.

## 8. Recommendations

- 8.1 The Cabinet is asked to agree to enter into the Deed of Variation to accept the proposed changes required by HE, and the revised milestones proposed by the Council.

8.2 The Cabinet is asked to agree to delegate authority to the Director of Place and Deputy Chief Executive, in consultation with the Leader of the Council, Chief Finance Officer and Assistant Director Legal and Governance to make the relevant changes, should any similar Deeds of Variation be required.

## 9. Suggested reasons for decisions

9.1 Option 2 could result in the loss of £170m of capital funding, which is considered vital in supporting Medway's future regeneration and delivering against Local Plan targets. Option 1 continues to demonstrate commitment to delivery of the £170 m HIF programme.

9.2 Delegation of authority for any similar future Deeds of Variation to the Director of Place and Deputy Chief Executive, in consultation with the Leader of the Council, Chief Finance Officer and Assistant Director Legal and Governance, within the next 12 months, would ensure timely changes can be made with HE and will not cause delay to monthly HIF grant draw down claims.

## Lead Officer Contact

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## Appendices

Appendix 1 (exempt) – Housing Infrastructure Fund Grant Determination Agreement Deed of Variation Proposed Changes

## Background papers

7 April 2020 Cabinet Paper - Housing Infrastructure Fund (HIF) New Routes to Good Growth – Project Delivery

<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=52276>