

## **CABINET**

**28 SEPTEMBER 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**

The Council has made significant progress in the delivery of the Housing Infrastructure Fund: New Routes to Good Growth Programme. Key achievements include: the completion of preliminary designs for the highway infrastructure, the commissioning of the Governance for Rail Investment Projects (GRIP) 3 Option Study for rail infrastructure, the completion and consultation upon the Scoping Report for the Cumulative Environmental Impact Assessment which is now directing the Strategic Environment Impact Assessment (SEIA) work stream, the development of the Strategic Environmental management Schemes (SEMS) Strategy, formation of a Property Cost Estimate (the subject of a paper elsewhere on this agenda), ongoing discussions with effected key freeholders and leaseholders; and extensive public consultation. This progress has been underpinned by the formation of a robust and highly skilled delivery team.

Reflecting on this progress, the Council led a review of the onward programme. This report asks Cabinet to consider the outcome of that review and discussions with Homes England over a one-year extension to the HIF Project. Previously concluding in March 2024; the HIF project would now run until March 2025.

#### **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.
- 1.2 The extension offered by Homes England has no impact on the £170 million grant awarded to Medway Council. This is in line with the budget framework previously set out in the GDA. A claim for £1,768,000 was submitted to HE in

September 2021. Future claims will be assessed against the terms of the Deed of Variation.

## 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.
- 2.2 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.
- 2.3 To build upon this solid foundation and ensure the HIF programme actively responds to the outcome of work to date; in particular, the recent extensive consultation work and design studies; Medway Council submitted a programme review in July 2021 to Homes England detailing progress with the Housing Infrastructure Fund.
- 2.4 Further to this review, Medway Council and Homes England (HE) have discussed a programme extension. This would extend the Project deadline from March 2024 to March 2025, the precedent of which had already been set by another local authority involved in a separate HIF scheme. Formal agreement with HE was only reached in summer 2020 so the extension will re-provide some of the time which was lost in the bid process.
- 2.5 After considering the review HE praised the quality of the review and in turn gave their approval for an extension in August 2021, subject to entry into a Deed of Variation. Once this Deed of Variation is signed, Medway Council will continue to claim for monthly costs pertaining to the Housing Infrastructure Fund. Previous monthly Claims have been submitted against the old GDA as permitted by HE.
- 2.6 This will ensure residents and 3<sup>rd</sup> parties are fully engaged in the ongoing design and delivery of high-quality new neighbourhoods. This focused outcome driven approach will provide a high quality of development which closely reflects the areas heritage, culture and aspirations. This sustainable development process will be aligned with employment, contracting and training opportunities for local residents and businesses. The Council is committed to a delivery process which is robust, inclusive and deliverable. This ambition has driven a deep dive review of the HIF Programme, the results of which are set out below and in the attached appendix.

- 2.7 HE have sought minor changes to administrative 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 in principle with HE, subject to Cabinet approval.
- 2.8 Delegated Authority to sign the GDA was granted by Cabinet on 13 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.
- 2.9 In conjunction with the Deed of Variation, Cabinet is asked to delegate authority for any further Deeds of Variation, to the Director of Place and Deputy Chief Executive in consultation with the Leader of the Council, Chief Finance Officer and the Assistant Director Legal and Governance, for the life of the project. 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.

### 3. Options

- 3.1 There are two principal options:
- 3.1.1 Option 1: The Council approves the extension offer and enters into the Deed of Variation to alter wording and milestones in the GDA, in line with the proposed changes outlined in the programme review approved by HE, as set out in Appendix 1 (exempt). **This is the recommended option.**
- 3.1.2 Option 2: The Council rejects the extension offer and declines entering into the proposed Deed of Variation with HE.

### 4. Advice and Analysis

- 4.1 Option 1 will continue to unlock the allocated £170m HIF investment in the Hoo peninsula. The single year extension enabled by Option 1 will provide increased benefits to the programme. It will allow Medway Council to improve the quality of delivery through further consultation with residents and achieve a refinement of design. By choosing this option, Medway Council will gain an additional year to complete the Project by March 2025. Medway Council will also continue to submit grant funding claims to Homes England 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 and 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 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 such as changes to planning or the budget, 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. Members will note that such a delegation was agreed at Cabinet on 13 July 2021 for a period of 12 months (decision no. 88/2021 refers), however, it is considered necessary to extend the period of time the delegation is required for.

4.3 The implications to Cabinet going for option 2 are set out in the risk section below.

## 5. Risk Management

5.1 There are minimal risks associated with the extension offer and entering into the Deed of Variation with HE to the HIF GDA, as the changes including the extension have been agreed with HE and support both the Council and HE. Cabinet may refuse to agree to the extension, the risks associated with not approving the extension and entering into the Deed of Variation (DoV) 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.	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
Homes England Extension offer rejected	If the extension offer is rejected, the quality of the overall housing delivery may be affected. As the proposed milestone changes reflect new timescales laid out in the extension offer.	To mitigate the effect of no extension we can continue to review timescales and resourcing to achieve the same goals	B2

Potential Delays arising from 3 <sup>rd</sup> parties	The risk remains that the partners of the council are unable to maintain good progress and milestones slip impacting on deliverability and the GDA.	To continue to work collaboratively with 3 <sup>rd</sup> parties to ensure the scheme addresses the milestones in the GDA.	B2
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## 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). Homes England 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.
- 6.2 The HIF delivery team are confident that the financial implications of extending the programme will be met from within the existing budgets.

## 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.
- 7.2 The proposed delegation set out in paragraph 4.2 of the report will be required for the life of the project. Section 100(G) of the Local Government (Access to Information) Act 1985 specifies that any delegations required to be in place for a period greater than six months shall be included in the Council's Employee Scheme of Delegation. The Leader of the Council can agree the addition of delegations in relation to executive functions, as set out in paragraph 1.4(b) of the Leader and Cabinet rules set out in the Constitution.

## 8. Recommendations

- 8.1 The Cabinet is asked to agree to the one year extension to the HIF project (to March 2025 - Option 1 set out in paragraph 3.1.1 to the report), as documented in the Programme Review, which was sent to and approved by Homes England in August 2021.
- 8.2 The Cabinet is asked to agree to enter into the Deed of Variation to accept the proposed changes, and the revised milestones proposed by the Council as a result of the recent programme review submitted to Homes England.
- 8.3 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 further Deeds of Variation be required, for the life of the project, on the basis set out in paragraph 4.2 of the report.

## 9. Suggested reasons for decisions

- 9.1 Option 2 would result in no extension to the HIF project beyond March 2024. Denying this extra year would impact the quality of the delivery of the overall HIF scheme.
- 9.2 Option 1 continues to demonstrate commitment to delivery of the £170 m HIF programme.
- 9.3 Delegation of authority for any 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, for the life of the project, would ensure timely changes can be made with HE and will not cause delay to monthly HIF grant draw down claims.

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### Appendices

Exempt Appendix 1 – Housing Infrastructure Fund Grant Determination Agreement  
Deed of Variation Proposed Changes

### Background papers

13th July 2021 Cabinet Paper - Housing Infrastructure Fund (HIF) New Routes to Good Growth – Project Delivery  
<https://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=58770>