COUNCIL

Collaboration Agreement – South Lancaster Growth Catalyst

25 August 2021

Referral from Cabinet

Report of Director for Economic Growth & Regeneration

PURPOSE OF REPORT

- Set out the background and context to the South Lancaster Growth Catalyst and the associate Housing Infrastructure Project.
- Explain the relevance of the HIF project as an enable of managed and responsible development in South Lancaster.
- Provide a commentary on the Collaboration Agreement between this Council and Lancashire County Council. This legal document codifies and bind the parties to an agreed set of commitment for the fund.
- To ask Council to resolve to approve the Lancaster City Council entering into the Collaboration Agreement with Lancashire County Council.

This report is public

RECOMMENDATIONS

(1) Whether to agree that Lancaster City Council enters into a legally binding Collaboration Agreement with Lancashire County Council, for the purposes of recovering funds through the use of planning powers (granted under S.106 Town & Country Planning Act 1990.) to repay Lancashire County Council for the forward provision of infrastructure related items pursuant to the delivery of the South Lancaster Growth Catalyst (HIF).

(2) To delegate negotiating any non-material changes and signing of the agreement to the Chief Executive, in conjunction with the Council's legal advisors.

1.0 Introduction – Background and context

1.1 Prior to 2016 the Council had consulted on draft Local Plans and options documents that identified extensive areas for development in South Lancaster, to meet future housing requirements identified by the emerging Local Plan's evidence base. Other

locations in the district demonstrated much more limited opportunity for development.

1.2 From a sustainability perspective, the South Lancaster area presented an opportunity to create an integrated, high quality place to live with minimal travel requirements and access to existing employment and services. It is likely that in the absence of a structure approach, the locations identified for development in South Lancaster would have progressed through the Local Plan preparation process as a series of incremental urban extensions.

1.3 In March 2016, The Department for Communities and Local Government (DCLG, now MHCLG) invites expressions of interest for 'locally-led Garden Villages, Towns and Cities'; indicating that proposals could receive support with revenue for project costs, and priority access to funding streams such as Affordable Housing. In October 2016, Lancaster City Council submitted an expression of interest based on positive discussions with the Homes & Communities Agency (HCA, now Homes England) identifying the opportunity to fulfil future housing requirements in the emerging Local Plan with high-quality development. Also, in October 2016 Lancashire County Council's Cabinet approved the Lancaster District Transport Masterplan[i]. Page 31 of the Masterplan[ii] recognises the necessity for *'major improvements to the existing transport infrastructure that serves South Lancaster'* in order to facilitate housing growth through the potential Garden Village project and more widely.

1.4 In December 2016 the Council agreed to publish the draft Local Plan Strategic Policies & Land Allocations[iii] and begin consultation. Page 40 of the Appendix IV includes Draft Policy SG1 for Bailrigg Garden Village, (a key element of the overall South Lancaster Growth Plan) expected to accommodate approximately 3,500 dwellings. The policy also recognised the requirement for *'the delivery of necessary infrastructure to make development in this area acceptable in planning terms*. The policy also states that the Council *'will not support the piecemeal development of the site which does not address the wider infrastructure issues in this area'*. In January 2017Jan 2017 Local Plan consultation commenced, with a comprehensive programme of in-person public events held around the district, including areas of interest for the Bailrigg Garden Village project and during that month the Minister for Planning announces that Bailrigg Garden Village has been shortlisted for development.

1.5 The then DCLG, in July 2107 invited bids to the Housing Infrastructure Fund (HIF), including *'Forward Fund'* projects aimed at unlocking large strategic housing growth opportunities and the Council, via an ICMD[iv], agreed the submission of a bid for £130k capacity funding to HCA. During the following September, Lancashire County Council agree to develop and submit an expression of interest for a HIF Forward Fund bid in respect of South Lancaster, *'based on recently secured national Garden Village status'*.

1.6 In November 2017, feedback was gathered from public engagement events taking place throughout 2017. The overall feedback was summarised as follows:

- We should get it right and be ambitious
- We must manage water and flood risk well
- We must not make traffic and its impacts worse
- It should be about making real communities with a real sense of place and facilities and services including health
- It should be differential from the existing urban areas of Lancaster and Galgate i.e. there should be a sense of separation
- The locus of the University in the Village needs to be worked through and decided

1.7 Specific points raised in objection to the Bailrigg Garden Village plans, after a petition was received by Council on 12 Apr 2017, were summarised as follows:

- That such large-scale development is not needed
- Loss of green and open land to development
- Concern at flood risk
- Concern at habitat loss
- Concern at traffic impacts

1.8 A matter of particular interest in the development of the South Lancaster Growth Catalyst is the quantum of new housing proposed in the area, with its subsequent impact on amenities and the existing community.

1.9.1 Several different figures are forecast for different purposes, which should be borne in mind when considering the proposals. All such figures are indicative until detailed plans have been prepared and should be considered on that basis. All future developments in South Lancaster and beyond will be subject to the full planning policy and decision-making process.

1.10 original Garden Village proposal referenced a figure of 3,000 homes up to 2031 (the Local Plan period) without prejudice to further development beyond that date. The land within the scope of the Garden Village itself is considered to be appropriate for around 5,000 homes, although this figure is heavily dependent on the detailed infrastructure design plans.

1.11 In relation to the South Lancaster Growth Catalyst, the County Council's HIF bid referenced direct housing outputs enabled by HIF infrastructure including the Garden Village specifically and elsewhere in the south Lancaster area, if achieved these would represent up to 9,185 homes.

1.12 In February 2018 the Local Plan was published for statutory representations, including *'Policy SG1: Broad Location for Growth – Bailrigg Garden Village'* focusing on delivery of *at least* 3,500 new houses. Subsequently, MHCLG announced the South Lancaster HIF bid is to be taken forward to the *'co-development'* stage, triggering detailed further development of the plans and consideration of how the infrastructure catalyst could enable housing growth beyond South Lancaster.

1.13 Lancashire County Council submitted its detailed HIF bid, in 2019 supported by letters from Lancaster City Council and Cat Smith MP amongst others and on 29 Jul 2020 the Council adopted the Local Plan[v] inclusive of binding recommendations, including *Policy SG1: Broad Location for Growth (Including Bailrigg Garden Village)* enabling at least 3,500 new house and in October of that year, Cabinet agreed to endorse the preparation of an *Area Action Plan for South Lancaster*[vi], in order to create a robust and detailed policy framework for determining future planning proposals in the area.

1.14 Lancashire County Council's Cabinet receive an exempt report earlier this year regarding the HIF, and as documented in the Lancaster City Council Cabinet report of 8 June 2021, agreed to

- Enter into a Grant Funding Agreement with Homes England (HE) to receive the £140m HIF grant
- Deliver the package of highway and transport interventions contained in the proposal
- Act as the Accountable Body for the HIF grant

- Authorise officers to finalise and arrange the execution of a Grant Determination Agreement (GDA) to receive the HIF grant, subject to agreement of acceptable principles around co-operation and delivery between local partners
- Commission Network Rail to undertake a feasibility and options development exercise around changes to the West Coast Main Line which would provide access to Bailrigg Garden Village.

1.15 Lancashire County Council's Cabinet agree, via two reports, to the reconfiguration of M6 junction 33; and to using its powers to acquire the necessary land and development consent to deliver the reconfiguration and in March, the County Council and Homes England signed a Grant Determination Agreement for the award and delivery of the HIF grant, based on an extension of the project timescales to 2027.

1.16 Officers of the City and County Councils have worked together to develop a non-binding Principles Agreement, ahead of establishing a full Partnership Agreement in August 2021 and further work to begin delivering the project, including master planning and design code development.

2.0 Proposal Details - The Housing Infrastructure Funding programme – Its Role and relevance

2.1 Housing Infrastructure Funding is a Government grant funded programme partly funded directly by Government and partly via the planning system through planning gain and other publicly funded sources, such as, health and social care, NHS and education.

2.2 It is recognised by Government that upfront forward funding is required in some areas to provide new road infrastructure that unlocks development land and facilitates wider development. In the case of south Lancaster, the Government will provide £140M of funding to construct local road infrastructure and provide wider transport improvements. This will enable the development of new housing/mixed-use development, within a broader context of Bailrigg Garden Village and support via planning agreements the delivery of a wider package of public transport improvements around the City centre.

2.3 The balance of funding outside of the Governments £140M grant (£123M) will be obtained through a combination of other public funding sources, such as, the NHS, health and social care budgets and education; in addition to planning agreements (S.106 & Community Infrastructure Levy) made with developers for the provision of, but not limited to, parks, public open space, community facilities and local services. This would be the usual way of securing local additionality through planning gain with developers. The scale of the non-HIF funded provision reflects the long-term timeframe for development (20/25+ years) and the strategic scale of planned neighbourhood growth.

2.4 In the early years of development there will be insufficient funding available through either a Framework S106 Agreement or Community Infrastructure Levy (CIL). Lancashire County Council will provide a cashflow facility to enable the delivery of planning gain items, subject to Lancaster City Council agreeing to collect a ringfenced tariff per house/development equivalent to roughly 50% of the total planning gain tariff, through whatever planning gain mechanism is agreed (S.106 or CIL).

2.5 The level of the overall amount to be recovered through the HIF mechanism forms part of the original funding bid submitted by Lancashire County Council to Homes England. This was evaluated by and agreed with Homes England and Lancashire County Council and made subject to a Grant Determination Agreement between the two in January 2021.

2.6 The recovery of funding in this way is necessary for two reasons. Firstly, Lancashire County Council is not the Planning Authority and cannot recover funding from developers, nor can it influence the delivery of local housing numbers. Secondly, Lancaster City Council is unable to countenance the level of debt-funding required to deliver the non-HIF elements of the long-term development and the associated risks attached to it. The role of Lancaster City Council, therefore, would be as tariff collector of the ringfenced portion of monies collected from developers with an agreed capped and manageable level of risk over the long-term life of development. Lancashire County Council as the Strategic Transport Authority will manage the risks of finance and the HIF business case.

2.7 The specifics of this mechanism are set out in the Collaboration Agreement (Appendix 1) and covered in the section 4 of this report. However, there are variable risks associated with all development and particularly large-scale strategic development. The HIF business case refers to the provision of housing numbers (9185) which are based on a geographic area and the policies contained in the Local Plan. They are not Planning figures, but assumptions based on the potential capacity of sites across the broad area for growth within the Local Plan. They provide a projection of what can be delivered to fund road and other infrastructure, but they are not absolutes. These numbers also may or may not be delivered within the HIF timeframe.

2.8 The business case for the South Lancaster Growth Corridor is based on accepted, financial forecasting, viability appraisals, and development assumptions and, there will be certain sensitivities around these variables as time and development progresses. Factors which may impact the HIF business case over time and potentially bring about changes to the numbers, may include national and regional economic peaks and troughs, local site conditions, general levels of housing demand and developer appetite for risk. However, as is usual for large-scale and long-term strategic development, it is envisaged that these risks will be managed through the detailed planning and development process with developers at the appropriate stage.

2.9 Elected Members will be aware that developers often challenge local authorities on elements of planning gain through S106. on the principle of viability, or more precisely, lack of it. Particularly vulnerable to viability challenge is the provision of affordable housing. There is usually a disparity between a Councils affordable housing policy and what is eventually chieved through planning gain (S.106) This risk is, however, omnipresent and is something the City Council will continue to manage with or without the HIF funding.

2.10 Against the context of HIF the Council has reviewed the Local Plan to take account of the Councils declared “climate emergency”. It has also started the formal process to put in place an Area Action Plan (AAP) that will underpin the policies contained in the Councils Local Plan and strengthen the level of detail around the Councils ambitions for the South Lancaster Growth Catalyst and how it wants local developers to respond. The Councils has also commissioned JTP (Urban Designers/masterplanners) to commence work to produce a Design Code for the Garden Community (Bailrigg Garden Village).

2.11 This work will add further detail around important aspects of scale, massing, urban design, infrastructure design and landscaping and will significantly help to inform the Area Action Plan. Both strands of work have now started to explore and refine more detailed local viability issues, and this will inform both the AAP and Design Coding work streams.

2.12 Strengthening planning policy in this way helps to establish a closer more detailed understanding of development costs, outturn values and risks, providing a rigorous evidence base against the potential of viability challenge in the future.

2.13 As part of the ongoing work to deliver an Area Action Plan for south Lancaster and a design code for the garden community the Council will undertake and complete an appropriate Carbon Impact assessment as these plans emerge.

2.14 Ultimately, the detailed assessments around the various viability issues will continue through the life cycle of the development although these will become more predictable as development progresses. The provision of the direct portion of HIF (£140M) by the Government will enable the development of new housing, effectively de-risking what would otherwise fall to developers to fund as part of the development process.

2.15 Without the HIF project funding the Local Plan will likely require an urgent full-scale review, but it will also immediately come under pressure from developers, who are likely to challenge standing strategic transport objections and local network capacity in favour of local solutions. These challenges will likely be made via Planning Appeal and whilst they will be measured against the adopted Local plan policies by a Planning Inspector, the Councils inability to guarantee a 5-year land supply would be a material consideration that would would place south Lancaster and, indeed other parts of the district at risk of adhoc incremental development. Therefore, development pressures in South Lancaster will not be resolved if HIF funding does not proceed, but the ability to resist uncoordinated and unplanned development is likely to become more difficult This would have a significant impact on the Councils response to the challenges presented by climate change, not least because of the potential loss of the modal shift proposals (public and active transport) that would ensue from development transport planning.

3.0 Planning policy and other comments on the managed or feral development choices

3.1 If the HIF is not advanced then it is not evident how the transport infrastructure that would create the circumstances for better accommodating development in Lancaster would be achieved. Uncertainty about how development can be facilitated in the key long-term location that has been identified, through a now concluded Local Plan process, would likely encourage development proposals to come forward on sites that are not identified in the local plan. Such proposals may well come forward at locations which would not be preferable in terms of creating sustainable development outcomes. Proposals coming forward on sites not identified in the plan could well raise challenges in terms of the settlement hierarchy, flood risk and compliance with policies on green belt, affordable housing, and design. In the context of a declining housing land supply, significant uncertainty and, at least, what would be an undeniable delay in the prospect of bringing forward developable land in south Lancaster, then such proposals will become progressively more difficult to resist.

3.2 For clarity, the existing adopted plan, or following its adoption, the Climate Emergency Review of the Local Plan, would remain the adopted development plan until superseded by a full-scale strategic review. Development proposals would have to be determined in accordance with its policies unless material considerations indicate otherwise. It policies of course include Policy SG1 which identifies Lancaster South as a Broad Location for Growth.

3.3 The National Planning Policy Framework (NNPF) still states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed. In short, should the Council find itself in a position of needing to strategically review its Local Plan then the same challenge, the need to accommodate significant development requirements in Lancaster district, will persist.

3.4 A full-scale strategic review of the Local Plan would take some years to complete, and it too would have to establish a new housing requirement for a *minimum* of 15 years *from adoption*. Thus, the Council would once again be faced with the challenge of resolving where a likely significant development requirement can be directed in the district. Previously, when identifying south Lancaster as a Broad Location for Growth the Local Plan had been prepared when the County Council was leading on the process of achieving enabling infrastructure through the HIF process. In the absence of that prospect, it is just not clear what circumstances would prevail should decisions need to be made about substantive development allocations in when reviewing the Local Plan and potentially alternative development locations would once again need to be seriously explored.

3.5 Members will be aware that the government has signalled its intentions to simplify the planning system; the August 2020 "Planning for the Future" White Paper described possible approaches for long-term fundamental structural changes to England's planning system including a policies map that has only three categories – "Growth areas," Renewal areas" and "Protected areas". The Queens Speech of 2021 describes the Government's intentions to bring forward a Planning Bill with the express purpose of introducing; *"Laws to modernise the planning system, so that more homes can be built, will be brought forward…"* Thus, it is possible that a strategic review of the Local Plan may need to be undertaken in the context of a streamlined planning system that provides less opportunity for locally detailed policies.

4.0 Legal Commentary on the Collaboration Agreement

(Exempt from publication by virtue of paragraph 3 of Schedule 12a of the Local Government Act 1972.)

5. Options Assessment

5.1 Option 1.

Enter into the collaboration Agreement with Lancashire County Council and accept £140m infrastructure investment for the South Lancaster Growth Corridor

Advantages

- Improvements to road network capacity and alleviate congestion at Galgate
- Delivery of modal shift) public transport infrastructure and the associated Carbon reduction.
- Enable the delivery of new homes in the district for local people.
- Enable delivery of the planned garden community which will Include walkable mixed-use neighbourhoods, reducing reliance on private car and commensurately reduce carbon emissions.
- Enable more sustainable design solutions aimed at mitigating local flooding

Risks

- This is a large scale strategic long term development programme with many layers of risk. These risks are common to most projects of this nature and have been evaluated by the HIF business case. Comments from the S151 and Monitoring officer are made in the context of these risks.

5.2 Option 2

Not to enter into a Collaboration Agreement with Lancashire County Council and decline £140M infrastructure Investment for the South Lancaster Growth Corridor.

Advantages
There are no discernible advantages when compared to the direct level of HIF investment from Homes England and it's context within the Local Plan and associated Council policies.

Disadvantages

- Will cause immediate uncertainty around the Council's inability to fund infrastructure in South Lancaster.
- Will necessitate the need to undertake an urgent review of the Local Plan.
- Leave the Council vulnerable to developer challenge in planning applications.
- This may lead to a "planning by Appeal' on day-to-day planning applications, which will likely have considerable financial impact.

Risk

- Vulnerabilities of the Local Plan without HIF may proliferate unplanned incremental development across the district not just in South Lancaster. In this event such development would undermine the Council's ability to deliver climate change objectives around CO2 emissions when compared to planned development.
- Significant reputational damage in the working relationships with Lancashire County Council, MHCLG and Homes England, which may impact on future strategic investment programmes.

The Officer preferred option is option 1.

CONCLUSION OF IMPACT ASSESSMENT **(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing):** Local Plan Impacts in the event of no HIF funding.
LEGAL IMPLICATIONS Legal Services have been involved in drafting the Collaboration Agreement.
FINANCIAL IMPLICATIONS Exempt from publication by virtue of paragraph 3 of Schedule 12a of the Local Government Act 1972.
OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces There will be a requirement for ongoing partnership working with Lancashire County Council, Homes England, local communities and wider delivery partners through the development programme.
SECTION 151 OFFICER'S COMMENTS Exempt from publication by virtue of paragraph 3 of Schedule 12a of the Local Government Act 1972.
MONITORING OFFICER'S COMMENTS

A function of the Cabinet is to refer to the Full Council for determination all matters which are not in accordance with the Budget and Policy Framework adopted by the Full Council.

Full Council is to make decisions about any matter in the discharge of a Cabinet function where the Cabinet is minded to make the decision contrary to the Policy Framework or not wholly in accordance with the Budget.
The Budget & Policy procedure rules make provisions for decisions outside the Budget or Policy Framework.

Decisions discharging Cabinet functions may only be taken in line with the Budget and Policy Framework. If any body or person discharging executive functions wish to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget approved by Council, then that decision may only be taken by the Full Council (subject to urgency provisions).

If the Cabinet and any of its Committees, any Officers, or joint arrangements discharging executive functions wish to make such a decision or are uncertain if an issue requiring a decision is inside or outside the Budget and Policy Framework, they shall take advice from the Monitoring Officer as to whether the decision they wish to make would be contrary to the Policy Framework, and from both the Monitoring Officer and Chief Finance Officer (s151) in circumstances where the matter in question may be contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and /or Policy Framework, then the decision *must* be referred by that body or person to the Council for decision, (unless the decision is a matter of urgency).

As a consequence of Chief Finance Officer advice that this decision may be contrary or not wholly in accordance with the budget the referral to Full Council for a decision is a mandatory one by the executive.

BACKGROUND PAPERS	**Contact Officer:** Jason Syers **Telephone:** 01524 582302 **Email:** jsyers@lancaster.gov.uk