

Divisions Affected – Didcot Ladygrove, Hendreds & Harwell, Sutton Courtenay & Marcham, Berinsfield & Garsington, Didcot West

CABINET

16 July 2024

**Didcot Garden Town Housing Infrastructure Fund (HIF1)
AMENDMENTS TO THE GRANT DETERMINATION AGREEMENT**

Report by Director of Environment and Highways

RECOMMENDATION

1. The Cabinet is **RECOMMENDED** to;
 - a) **Approve the proposed changes to the Grant Determination Agreement (GDA) as set out in paragraphs 13 and 14 of the report; and**
 - b) **Authorise the Director of Environment and Highways, in consultation with the Director of Law & Governance and Monitoring Officer, Executive Director of Resources and Section 151 officer, Cabinet Member for Infrastructure and Development Strategy and Cabinet Member for Finance to finalise the terms of, and enter into, the amended Grant Determination Agreement.**

Executive Summary

2. The Didcot Garden Town Housing Infrastructure Fund project (HIF1) has been widely publicised and the details published in previous Cabinet reports.
3. Following consideration by the Council's Planning and Regulation Committee in July 2023, the HIF1 planning application was 'called in' by the Secretary of State for Levelling Up, Housing and Communities on 25 July 2023, and a decision is now awaited following the conclusion of conjoined planning and Orders Public Inquiries, which closed in May 2024.
4. After extensive negotiation, Homes England has agreed to contribute further funding to the programme of £36,400,000, potentially extending to £116,000,000, and to extend the funding window to 31 March 2028. The remaining required funding can be met by the previously approved contributions from OxLEP, Section 106 income, and the allowance in the Council's budget through capital borrowing.

5. The Grant Determination Agreement with Homes England needs to be amended to reflect these changes, by way of a Deed of Variation.

Background

6. In October 2019, following a series of Cabinet approvals and a successful Housing Infrastructure Fund grant award of £218m, the HIF1 project was included in the County Council's capital programme. The original funding agreement, between the Council and Homes England, known as the Grant Determination Agreement (GDA), was entered into in June 2020.
7. On 15 March 2022, Cabinet resolved to authorise the Corporate Director of Environment and Place, in consultation with the Director of Law & Governance, Director of Finance, Cabinet Member for Travel and Development Strategy and Cabinet Member for Finance to enter into an amended GDA with Homes England to accommodate changes to timescale and budget.
8. On 21 June 2022, Cabinet resolved to approve the amendments to the GDA and authorised the signing of the Deed of Variation to the GDA by the Director of Transport and Infrastructure in consultation with the Director of Law & Governance, Director of Finance, Cabinet Member for Infrastructure and Development Strategy and Cabinet Member for Finance. This resulted in Homes England extending its funding allocation from £218,016,437 to £239,816,437, with funding availability up to March 2026.

Scheme Review

9. Following the call-in of the planning application by the Secretary of State for Levelling up, Housing and Communities, a review of the programme and cost of the Scheme was undertaken. As a result of this review, it became clear that the current budget envelope and the time allocation for completion of the Scheme was insufficient due to the delays resulting from the call-in of the planning application and the related additional Public Inquiry process on top of that originally accounted for in relation to the statutory orders (CPO, Side Roads Order and Bridge Scheme).
10. The review outcomes were that the total budget envelope had increased by £36,386,575 and construction would be completed in January 2028. These matters were set out in the evidence presented in the Public Inquiries.
11. The reasons for these changes can be summarised as follows:

Planning and Orders Inquiries

In July 2023, the Council's Planning and Regulation Committee voted to recommend refusal of the planning application for the HIF1 Scheme, and on 25 July 2023 the Council received notification that the Secretary of State for Levelling Up, Housing and Communities had 'called in' the planning application for his own determination.

The Inquiry into the called-in planning application was conjoined with the Inquiries into the statutory Orders and the resulting Inquiries ran from 20 February 2024 to 9 May 2024 (with the planning Inquiry being formally closed that day and the statutory Orders Inquiries being formally closed on 21 May 2024). Working to the assumption that it may take approximately six months to receive decisions on the called-in planning application and the statutory Orders (and noting that these will be decisions from two different Secretaries of State), it is anticipated that the scheme will be delayed by approximately a year and a half. The calling of the General Election within the decision period may also contribute to this delay.

Inflation

Construction price inflation accelerated significantly from early 2022. When the previous Material Change Request was submitted in December 2021, the total inflation was estimated to be £27.1m. With the additional impact of the delay due to the Inquiries, it is now estimated that the construction inflation costs to be applied to the Scheme will be substantially higher, at £59.3m. This is an increase of £32.2m. This was set out in evidence at the conjoined Inquiries into the Scheme.

Other related costs

Projected costs associated with the Inquiries and subsequent delay have increased, including legal fees, contract and project management costs, ancillary costs and general cost increases.

12. The new key milestone dates for the delivery of the project are outlined in Table 1 of this report.

Changes to the HIF Grant Determination Agreement

13. In October 2023, the Council submitted a Material Change Request to Homes England. On 19 April 2024 Homes England confirmed an additional £36,400,000, potentially extending to £116,000,000, towards the HIF1 Scheme. The funding breakdown can be found in Table 3.
14. As the programme and budget are now outside of the previously amended Grant Determination Agreement with Homes England signed in May 2023, further amendments to the agreement are required in order to deliver the infrastructure provided by the Scheme. The amendment to the agreement will include the following elements:
 - An extension to the availability period to 31st March 2028 and associated change in milestones (see Table 1).
 - An increase in HIF funding to at least £276,216,437, and a maximum of £355,816,437 (£79.6m will be held by Homes England as a funder contingency and will only be available to the Council following written agreement from Homes England). See Table 3.

- A change to the drawdown profile, including a stipulation that the total grant that can be claimed between 1 April 2026 and 31 March 2028 shall not exceed £289,902,334.
 - As is currently the case, the Council will be required to cover any and all further cost overruns over and above the grant (now £355.8m) and meet costs not claimed by the end of the availability period (now 31 March 2028).
 - A requirement to demonstrate delivery of all the 12,655 Housing Outputs, irrespective of any cost or programme over-runs.
15. Officers continue to negotiate the specific wording for the revised GDA in line with the principles outlined in this report. On completion of the redraft, formal approval will be required in line with the delegations sought through this Cabinet decision report.
16. The current and proposed funding packages supporting the onward delivery of the Scheme are included at Table 2 and 3 respectively.

Progress to Date

17. The conjoined Planning and Orders Inquiries sat from 20 February 2024 to 9 May 2024.
18. Oxfordshire County Council, South Oxfordshire and Vale of White Horse District Councils, and UK Atomic Energy Authority (UKAEA) presented evidence in support of the planning application and Orders for the Scheme.
19. The Planning Inquiry was formally closed on 9 May, and the Orders Inquiries were formally closed on 21 May, following a non-sitting period to enable the completion of legal agreements.
20. The Inspector is now drafting her reports to the relevant Secretaries of State (being the Secretary of State for Transport in relation to the Orders and the Secretary of State for Levelling Up, Housing and Communities in relation to the planning application). The respective Secretaries of State will make the final decisions, and it is anticipated that these will be issued on or before 8 October 2024. It is possible that this date may be impacted by the General Election.
21. Graham Construction Limited has been appointed to undertake the detailed design of the Culham River Crossing and Clifton Hampden Bypass elements of the Scheme, and design work is underway. Procurement is currently underway for the detailed design of the combined Didcot Science Bridge and A4130 elements of the Scheme, now jointly known as Didcot Science Bridge.
22. Work is ongoing on developing the Science Vale Area Travel Plan which complements the HIF Scheme and ensures that the wider objectives and benefits are achieved, putting the HIF1 Scheme in wider context of the area and other relevant plans.

Programme

23. The delivery programme was updated as part of the Material Change Request process.
24. Key milestones through to completion are set out within Table 1.

Table 1 –Proposed Key Milestones HIF1

Activity	Target Date
Cabinet – GDA amendment	Jul 2024
Planning and Orders determination	Oct 2024
Detailed design and construction contract procurement complete	Mid/late 2025
Possession of land	Mid/late 2025
Construction commences	By Jan 2026
Construction complete	Jan 2028
Project close	Spring 2028

25. The critical path to the delivery of the HIF1 Scheme runs through the detailed design and construction of the Culham River Crossing element. It should, however, be noted that the timescales associated with a decision being made by Secretaries of State following the Public Inquires are not fixed and are outside of the Council’s influence. Hence, a risk remains that these may extend beyond the timescales built into the project programme.
26. The programme will be continually updated as the project progresses and in line with Council internal governance requirements, to ensure that any risks to its delivery are highlighted at the earliest opportunity.

Financial Implications

Project Costs

27. The total Scheme cost to completion is estimated to be **£332.538m**, which includes £46.853m for quantified risk and optimism bias, and £59.307m for inflation.

Project Funding

28. Funding has currently been secured as per that presented in Table 2.

Table 2 – Current Funding Summary

Source	Value (£'000's)
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Housing Infrastructure Fund grant	239,816
Section 106 (held)	6,736
Section 106 (underwritten by Council but expected to be received prior to project close)	9,713
Oxfordshire Local Enterprise Partnership*	10,000
Council capital borrowing (approved as part of budget 8 February 2022)	29,893
Total	296,152

*secured against future business rates retention and forward funded by Council as part of approved capital programme

29. The Council entered into the GDA with Homes England in late June 2020, and a revised GDA in May 2023, to secure the grant monies, subject to a series of conditions linked to Scheme progression, a number of which have already been discharged.
30. The proposed revised funding package is set out within Table 3.

Table 3 – Revised Funding Summary

Source	Value (£'000's)
Housing Infrastructure Fund grant	276,216
Section 106 (held)	6,736
Section 106 (underwritten by Council but expected to be received prior to project close)	9,713
Oxfordshire Local Enterprise Partnership*	10,000
Council capital borrowing (approved as part of budget 8 February 2022)	29,893
Sub total	332,552
Housing Infrastructure Fund grant contingency**	79,600
Total	412,152

*secured against future business rates retention and forward funded by Council as part of approved capital programme

**subject to further approval - see paragraph 14 above

31. The HIF grant availability has been extended to March 2028, subject to conditions, including those in Paragraph 14. As is currently the case, OCC will be required to cover any and all further cost overruns over and above the grant (now £276.2m, and potentially up to £355.8m) and meet costs not claimed by the end of the availability period (now 31 March 2028).
32. The current spend profile indicates that the HIF grant would be drawn down first, with any additional financial contributions to the Scheme backloaded to the latter stages of delivery. Therefore, spend on any additional contributions is anticipated to commence in 2027 onwards. The HIF grant funder contingency would be available following written agreement from Homes England on a case by case basis and is not intended to replace other Scheme funding.

Comments checked by:

Legal Implications

33. There are several legal mechanisms within the current GDA agreement which reduce the risk on the Council. The milestone extension events outline the exceptional circumstances that, if they occur, trigger discussions with Homes England and result in movement of the Milestone Date(s) set in the GDA.
34. There is a mechanism for escalating issues affecting the delivery of the infrastructure schemes to Homes England and the DLUHC. This escalation has been used in negotiating the revised availability period and finances in the GDA Deed of variation.
35. Any changes to the GDA as amended by the Variation Agreement are binding on the parties.

Comments checked by:

Jayne Pringle, Head of Law (Contracts & Conveyancing) & Legal Business Partner, jayne.pringle@oxfordshire.gov.uk

Equality & Inclusion Implications

36. The equalities implications of the HIF1 Scheme have been assessed robustly through the design development stages of the Scheme and in reaching the preferred option. These equalities implications have been considered in line with the Equality Act 2010 through the completion of an Equality Impact Assessment (EqIA).

Sustainability Implications

37. Sustainability implications and credentials have been covered in previous Cabinet reports. Throughout the development of HIF1, officers will continue to work with Members to ensure it meets their priorities. This will include how the Scheme integrates with the Travel Plan for the wider Science Vale area. Appendix A contains further information.

Risk Management

38. The core concern for the Council is the financial risk faced if there are any delays to delivery caused by exceptional circumstances. The Council will have to pay for any cost overruns past the end of the funding availability period of March 2028.
39. At the time of contracting the original agreement with Homes England, a clause was inserted to ensure that Homes England could not clawback funding that had been spent on the Scheme in good faith.

Consultations

40. A series of public consultations have been undertaken throughout the previous development stages of the HIF1 Scheme. Further information has been provided in previous Cabinet reports.

Paul Fermer
Director of Environment and Highways

Appendices: Appendix A – Sustainability Credentials

Background papers: None

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July 2024

Appendix A

SUSTAINABILITY CREDENTIALS