

To: Cabinet

Date: 16 November 2022

Report of: Executive Director (Development)

Title of Report: Implementation of the Housing Infrastructure Funding (HIF) agreement for Osney Mead public realm works and the Oxford Flood Alleviation Scheme (OFAS)-revised implementation arrangements

Summary and recommendations	
Purpose of report:	This report provides an update on the use of Housing Infrastructure Funding (HIF) to support delivery of development at Osney Mead, through the delivery of path works and contribution towards the Oxford Flood Alleviation Scheme (OFAS). The report asks Cabinet to note the revised implementation arrangements and agree to enter into legal agreements to support these.
Key decision:	Yes
Cabinet Member:	Councillor Alex Hollingsworth, Cabinet Member for Planning and Housing Delivery
Corporate Priority:	Pursuing a zero carbon Oxford Deliver more, affordable housing
Policy Framework:	Oxford Local Plan 2036
Recommendations: That Cabinet resolves to:	
<ol style="list-style-type: none"> 1. Note the proposed revisions to the Housing Infrastructure Fund agreement with Homes England, noting that Cabinet, on 20 January 2021, delegated authority to the Executive Director (Development) in consultation with the Cabinet Member for Planning and Housing Delivery and the Head of Law and Governance, to make any changes necessary to facilitate effective delivery of the funding agreement with Homes England; and 2. Delegate authority to the Executive Director (Development), in consultation with the Cabinet Member for Planning and Housing Delivery and the Head of Law and Governance, to enter into legal agreements with: <ol style="list-style-type: none"> (i) Oxfordshire County Council, to provide them with a proportion of the HIF funding secured by the City Council to enable County to deliver the Oxford Flood Alleviation Scheme enabling works as part of the Kennington Bridge works; and 	

- (ii) a tripartite agreement with the County Council and the Environment Agency (EA) regarding the delivery of the HIF milestones, monitoring, and clawback arrangements as necessary.

Appendices

Appendix 1 Risk Register

Introduction and background

1. The Government launched a funding stream known as Housing Infrastructure Funding (HIF) in 2017 to support the delivery of infrastructure on marginally viable housing schemes. The HIF programme is being administered for the Government by Homes England. In November 2019, Cabinet gave approval for the Council to enter into a funding agreement with Homes England for £6.09m to support the delivery of development at Osney Mead.
2. A report on the implementation of the HIF was considered by Cabinet in January 2021. Since that report there has been further work to implement the proposals and this report provides an update and seeks approval for the revised legal agreements required with the County Council and the Environment Agency (EA).
3. The funding bid was called the “Osney Mead Innovation Quarter” (OMIQ), the programme is known as Osney Mead HIF. The funding is to be used for the purpose of contributing to the Oxford Flood Alleviation Scheme (OFAS), and walking and cycling improvements. The agreement is one of three HIF funding agreements (OMIQ, Blackbird Leys & Oxford North) the City Council has in place with Homes England.
4. A summary of the proposed interventions to be funded, in part, or fully is set out below:
 - a. **£4.35m contribution to OFAS.** This is to be used to fund part of the Kennington Bridge OFAS related works. The proposal is that the HIF funds will be claimed by the City Council and then paid by the City Council to the County Council to undertake the Kennington Bridge Works (‘the OFAS Bridge Works’) which will facilitate the OFAS scheme, and that the County Council will, upon completion of the Bridge Works, make a payment of the same amount to the EA.
 - b. **£1.74m for the public realm improvements for walking and cycling.** The original proposal was to fund improvements to the path alongside the Thames between Osney Mead and Grandpont nature reserve. These works will complement the Local Growth Fund funded path works through Osney Mead itself that have been delivered by the University, and the proposed Oxpens River Bridge which is to be funded through the Oxfordshire Growth Deal. Initial work has identified that there is not sufficient funding to improve the whole route between Osney Mead and Grandpont Nature Park. Therefore it is proposed that the Funding be used to improve the connections from the proposed new bridge through Grandpont Nature Park as far as the existing rail bridge.

5. OFAS, the proposed improvements to the path alongside the Thames, and the proposed Oxpens Bridge, support future development at Osney Mead on land allocated in the Local Plan.
6. The EA have advised that the HIF is the last element of funding required to be secured for OFAS. The HIF was awarded in the light of the marginal viability for residential accommodation at Osney Mead and therefore it is important that the funding is secured to support the measures that facilitate the development.

Summary of what was agreed at 21 January 2021 Cabinet

7. Cabinet agreed to delegate authority to the Executive Director for Development, in consultation with the Cabinet Member for Planning and Housing Delivery, and the Head of Law and Governance, to:
 - (i) Agree the proposed changes to the HIF agreement with Homes England to facilitate the securing of the HIF funding, the delivery of the infrastructure and the recouping of funding;
 - (ii) Agree the final amendments to the contract, in line with the proposed changes, and any other changes that are considered necessary to facilitate effective delivery of the funding agreement with Homes England;
 - (iii) Enter into a legal agreement with the Environment Agency to enable HIF funding for the Oxford Flood Alleviation Scheme to be transferred to the Environment Agency, in accordance with the terms of the Homes England Agreement;
 - (iv) Enter into a legal agreement with the University of Oxford, if necessary, regarding the delivery of the residential development identified in the HIF agreement;
 - (v) Undertake the works necessary to implement the HIF funding agreement including the drawdown of funding, monitoring and reporting, minor variations agreed with Homes England; and
 - (vi) Enter into contracts, following agreement of the Development Board and an appropriate procurement process, for the walking and cycling infrastructure works covered by the HIF Agreement with Homes England.

Revised Implementation Arrangements

Deed of Variation with Homes England

8. The Cabinet report dated 20 January 2021 set out the reasons for the delays to the OFAS scheme as a result of the need for the Kennington Bridge Works. The report sought approval of a revised funding agreement with Homes England to extend the period for draw down of the HIF funding. A Draft Deed of Variation has now been received from Homes England and an extension of the funding period to March 2024 has now been sought and will be secured through the Deed of Variation. This is the latest date the funding can be drawn down from Homes England.

Agreement between Oxford City Council, Oxford County Council and EA

9. The Council had intended to grant part of the HIF Grant to the EA (see paragraph 7 bullet point 3) for the purposes of the Oxford Flood Alleviation Scheme, but with the Oxford Flood Alleviation Scheme delayed, and the EA not yet in a position to commence the Oxford Flood Alleviation Scheme, this is not possible within the timeframes.
10. Discussions and negotiations have therefore taken place with Homes England, Oxfordshire County Council and the EA to instead enable the HIF funding to be drawn down by the City Council and passed to the County Council to be used for the enabling works associated with the Kennington Bridge Works, which are necessary for the delivery of the OFAS scheme. It has been established that a funding agreement between the City Council and County Council is required, to pass on relevant requirements from the Homes England agreement with the City Council. A tripartite agreement with the County and EA is also required which sets out which of the HIF milestones each party is responsible for delivering in order to facilitate housing development at Osney Mead. This report seeks approval for further delegation to enter into these legal agreements.

Agreement with Oxford University (OU)

11. In addition to the revisions included in the Deed of Variation and the tripartite agreement to remove the risk of claw back of the funding from the City Council, an agreement is also required with OU. This will cover the collaboration on meeting the HIF milestones related to delivery of residential accommodation, and in the circumstances that housing is not delivered at Osney Mead, OU would be responsible for the payment of any claw back of the HIF. The HIF Agreement has residential development as the primary aim, but in the case of Osney Mead it now allows for the residential development to be delivered after the infrastructure has been provided and the funding has been claimed and spent. An agreement is necessary to mitigate the risk to the City Council of being responsible if housing was not delivered and Homes England sought the claw back of funding. At the time of the previous report it was not clear if a separate agreement with OU would be required and the matter was agreed to be delegated. It is now clear that an agreement is required with the detail to be delegated.

Revised scope of the HIF pathworks

12. Feasibility work has been undertaken to develop a scheme to improve the path between Osney Mead and Grandpont Nature Park, including replacing the Bullstake Stream Bridge. Initial cost estimates have resulted in a scheme cost beyond the funding available. Therefore, with the agreement of OU, it is proposed to use the HIF to undertake path improvements linked to the Growth Deal funded bridge over the river. The focus of the HIF being on the pathworks between the new bridge and the existing Railway Bridge to the west. Cabinet in January 2021 agreed to delegate the entering of contracts associated with the delivery of the path works, see paragraph 7 bullet 6. The completion of path works, between the Railway Bridge and Osney Mead, are likely to be necessary for future residential development at Osney Mead as part of a dry route at times of flood. As such it is likely further improvements would come

forward in the future and be funded as part of wider Osney Mead development proposals.

13. The funding contribution for OFAS and capital costs associated with the path works can be covered by the HIF funding, once pre draw down conditions are met.
14. Homes England have also advised they have some funding available for capacity support to help local authorities dealing with HIF. A submission for capacity funding is being prepared to cover staff, legal and other costs associated with administering the HIF funding for 2022/23. These costs are anticipated to be up to £100k. In the absence of being able to secure funding for any elements that cannot be capitalised or qualify for HIF or capacity funding the risk can be mitigated by minimising costs through the use of internal legal resource or if necessary costs would be pursued from existing budgets through Development Board to seek feasibility funding.

Other implications

15. This report relates primarily to the revised implementation agreements necessary to enable the drawdown of the HIF funding. The County Council will deliver the Kennington Bridge Works and will include measures to deal with the flow of floodwater as part of the wider scheme. OFAS is subject to planning, which has been submitted, and compulsory purchase requirements, as well as approval of the full business case to enable its implementation. These requirements will be undertaken by the Environment Agency who are delivering the OFAS scheme. Upon completion of the Kennington Bridge Works the County Council will make a payment (of the same amount as the grant monies received from HIF) to the EA.
16. The HIF is subject to monthly reporting and monitoring to Homes England. As with any project there may be issues that arise requiring further minor adjustment to milestones and pre drawdown conditions of the agreements.

Financial implications

17. The Council has already agreed to accept the HIF funding. The proposals in this paper relate to the implementation of the HIF Agreement and in particular agreements that are needed to enable the contribution to OFAS to be passed from the City Council to the County Council and to protect the City Council should housing not be delivered at Osney Mead without exposing the City Council to the risk the reclaiming of the funding once it has been spent.
18. A capital budget has been established for the £6.09m HIF funding. Due to the delays in delivering the HIF infrastructure the budget now needs to be reprofiled. An initial claim was made for £100k in 2021/22. A further £100k of spend on the pathwork design is anticipated 2022/23 with the pathwork delivery costs and OFAS funding of £5.85 million falling in 2023/24.
19. Subject to receipt of capacity funding other costs in administering the HIF will be funded by Homes England. If this is not possible costs will be minimised by using existing internal resources.

Legal issues

20. State aid advice has been received to confirm that the use of the funding does not give rise to any State aid implications. The entering into legal agreements included in the report will help to mitigate the risks to the Council in drawing down the HIF and spending it. Appropriate legal advice has been sought to ensure the agreements are robust and the requirements of the agreement between the Council and Homes England are appropriately passed on.

Level of risk

21. Risk Register as attached at Appendix 1.

Equalities impact

22. An Equalities Impact Assessment exists to ensure no discrimination, direct or indirect exists within the project planning and structure. The HIF funding is to be used towards two pieces of infrastructure as outlined above. The improvement of the path through Grandpont between the proposed bridge and the existing rail bridge is to be undertaken by the City Council. The works funded will improve the existing path by increasing the width of the path and reduce the gradients to make the path more accessible and user friendly for pedestrians and cyclists. The design will be compliant with current standards and therefore will be an improvement on the current situation for all users. The contribution to the OFAS scheme will assist with the delivery of the scheme which is designed to protect existing properties from flooding. The detailed design of the scheme has been undertaken by the Environment Agency who will have needed to address Equalities Impact as part of the process.

Conclusion

23. The recommendations are sought to enable the implementation of the HIF funding awarded for Osney Mead. The proposed funding for the OFAS Kennington Bridge Works and the OFAS and walking and cycling improvements remain necessary to facilitate housing development in Osney Mead.

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Background Papers:	
1	Cabinet report: Implementation of the Housing Infrastructure Funding for Osney Mead (20 January 2021)
2	Cabinet report: Appointment of a Contractor for the Oxpens River Bridge (16 November 2022)