



**Author/Lead Officer of Report:**  
Dermot Reader  
Project Officer (Housing Growth)

**Tel:** 0114 20 37126

**Report of:** *Laraine Manley*  
**Report to:** *Cabinet Member for Transport and Development*  
**Date of Decision:** 4<sup>th</sup> July 2019  
**Subject:** *Acceptance of grant funding from Homes England, Housing Infrastructure Fund – Manor Cluster*

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to? Cabinet Member for Transport and Development		
Which Scrutiny and Policy Development Committee does this relate to? Safer and Stronger Communities		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, what EIA reference number has it been given? 44		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		
<i>"The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended)."</i>		

**Purpose of Report:**

In September 2017, the Council submitted an application to the Homes and Communities Agency (now Homes England) Housing Infrastructure Fund: Marginal Viability funding programme. The bid identified 4 stalled housing development sites within the Manor ward of Sheffield with an estimated capacity of 419 units. These sites are part of the land allocated to the Sheffield Housing Company project.

The initial Sheffield Housing Company (SHC) development appraisal on these sites, known as Phase 5a 'Manor Cluster', identified an estimated viability gap of £3.55m due to additional infrastructure costs required to develop a previously cleared housing site.

Following the first stage approval of the bid, SHC used a pre-development loan secured from the Council to develop detailed development proposals resulting in a revised total capacity of 351 units and subsequent reduction in viability gap to £3.22m. Homes England have now fully approved the funding application and issued a draft grant determination agreement.

This report now seeks approval for the Council to accept the funding and enter into the said funding agreement with Homes England.

**Recommendations:**

The Cabinet Member for Transport and Development:

1. Approves the Council's acceptance of Homes England's Housing Infrastructure Fund, Marginal Viability Fund Programme grant of £3,219,272.
2. Approves the Council entering into the grant determination agreement with HE for the said funds.
3. Notes that the Council cannot enter into the grant determination agreement unless it meets the pre-contract conditions, which includes a pre-contract condition that it has provided written evidence to Homes England that independent state aid advice has been sought and that there are no issues in this regard.

**Background Papers:**

**N/A**

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: <b>M. Wassell</b>
		Legal: <b>Nadine Sime</b>
		Equalities: <b>Louise Nunn</b>
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	<b>EMT member who approved submission:</b>	Laraine Manley
3	<b>Cabinet Member consulted:</b>	Cllr. Bob Johnson
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	<b>Lead Officer Name:</b> Dermot Reader	<b>Job Title:</b> Project Officer – Housing Growth
	<b>Date:</b> 3 <sup>rd</sup> July 2019	

## 1. PROPOSAL

- 1.1 The Manor Cluster sites are located within a larger residential area that has had significant investment to reverse the housing market failure experienced over the last couple of decades. The sites are designated for housing use in the Unitary Development Plan, and the Council's Housing Market Profile identifies a strong need for larger, good quality properties.
- 1.2 The Council, working with SHC, submitted an initial business case to Homes England (HE) Housing Infrastructure Fund: Marginal Viability Funding programme in September 2017. This was to request £3.55m to pay for key infrastructure works that would unlock these sites, enabling a viable business case for housing development.
- 1.3 Following the first stage approval of the bid, SHC used a pre-development loan secured from the Council to develop detailed proposals resulting in a revised total capacity of 351 units:
- Manor 12 & 13 – 210 units
  - Pennine Village – 91 units
  - Corker Bottoms – 50 units

A revised business case was therefore submitted in December 2018 requesting marginal viability funding of £3,219,272.

- 1.4 In March 2019 Homes England issued a conditional grant offer letter along with a draft grant determination agreement. The grant determination agreement brings with it a number of obligations and pre-conditions.
- 1.5 The infrastructure funding will be used to deliver an off-site Sustainable Drainage Solution (SuDS), utility services diversions and connections, and contribute to improvements to roads and footpaths. The funding for these works must be spent by March 2022.
- 1.6 On receipt of the funding from HE the Council has two options, it can pass the grant to SHC under a back to back grant funding agreement (which will pass on the Council's obligations to SHC). Alternatively the Council can use the money to carry out the infrastructure works itself, before then passing the land on to SHC for them to deliver the housing scheme.
- 1.7 The most likely option is that the Council will seek to grant the funds to the SHC for them to complete the infrastructure works and then SHC will continue with delivery of Phase 5a. This is subject to receipt and acceptance of an independent opinion on state aid, a pre-contract condition of the funding from HE. The Council has recently received a specialist opinion which states that passing the aid from the Council to SHC, to complete the works, will be state aid complaint. The acceptance of the capital expenditure will also require full approval through the Capital Programme Group (CPG) gateway process.

- 1.8 Under the grant agreement the Council will monitor delivery and expenditure in line with the funder's requirements, and provide regular updates on housing delivery through to the end of the scheme in 2025.

## **2. HOW DOES THIS DECISION CONTRIBUTE?**

### **2.1 Better Health and Wellbeing**

To promote good health, and prevent and tackle ill-health, the SHC programme will plan and deliver accessible and energy efficient housing.

### **2.2 Tackling Inequalities**

Focusing on people and areas in the greatest need, the SHC programme will diversify the housing offer in the city's low performing housing market areas to tackle the underlying causes of poverty by building aspirational houses to increase the income levels of local areas and to build homes that are affordable to run.

### **2.3 Thriving Neighbourhoods and Communities**

SHC will build good quality new homes in neighbourhoods where economic growth and sustainable infrastructure are required. This will help to retain existing residents and attract new households into the city. By providing homes that can be adapted to meet lifetime needs, local communities are strengthened over time as residents choose to stay in the same area. Additional homes help to increase the Council tax base of the City, and attract New Homes Bonus and Community Infrastructure Levy funds which can be reinvested on local priorities.

## **3. HAS THERE BEEN ANY CONSULTATION?**

- 3.1 There is no statutory obligation to consult on the proposals in this report and the Report does not relate to services delivered to the public. There is no reasonable expectation that the public would be consulted on proposals of this kind.

- 3.2 SHC will carry out local community consultation on the development proposals before the final planning application is submitted.

## **4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION**

### **4.1 Equality of Opportunity Implications**

- 4.1.1 This proposal will not result in any negative equal opportunity implications. Existing and new residents will be provided with a greater choice of homes to live in the city.

- 4.1.2 An existing EIA is in place for this project. EIA Reference No. 44.

## 4.2 Financial and Commercial Implications

### 4.2.1 Key features (not exclusive) of the draft funding agreement are summarised below:

- Subject to the terms of the Agreement, SCC may seek to deliver the Project by directly procuring contractors to deliver the HIF Funded Infrastructure Works, or by providing funding to developer-partners/third parties who will procure such works themselves.
- The grant value is £3,219,272 and lasts until 31/3/2022.
- Deliver at least 351 residential units, associated infrastructure or any other construction on the Site, the Output of which is to be unlocked by the delivery of the works not including the HIF Funded Infrastructure Works.
- Project must begin by Start Date of 1 July 2020 with a Project Completion Date of 31 March 2026.
- Homes England's consent is required for any disposals made in relation to the Site.
- Comply with reporting requirements.
- Repay any overpayment of the Funding.
- Terminate this Agreement due to a range of criteria not being met including SCC fails to achieve any Output or Milestone etc. (not exclusive).
- Comply with EU Procurement and EU State Aid Regulations and also EU/UK Planning and Environmental legislation and ensure that contractors do the same.
- All costs saved or recovered within the project may be retained by the Council for use on further housing delivery subject to Homes England approval.
- Comply with claims requirements and timetables.
- All milestones to be met by the relevant milestone date.
- Any amount not drawn down by SCC during the availability period will automatically be cancelled.

- Funding used for development costs only in line with milestones / cash flow.
- Grant is subject to clawback (plus interest) if there is a breach of terms and conditions.
- The grant is subject to External Audit.
- No disposals without the funders consent.
- Funding shall be treated as inclusive of VAT.
- SCC to advise the funder if they wish to make any changes to the project.
- A pre- condition of SCC receiving the funding is that a legal opinion for the Project in relation to EU State Aid Law is provided by SCC to HE.
- SCC to provide written confirmation that any cost overruns in respect of the HIF Funded Infrastructure Works will be covered in full confirming that such infrastructure will not fail to be completed due to cost overrun/viability issues.
- SCC to provide a full cost plan for the infrastructure works and housing.
- SCC to provide Homes England with evidence to support the financial arrangements in place with regard to the source of finance and its cost, existing contractual arrangements and solvency of the proposed financiers.

4.2.2 The Project Manager will need to read, understand and, where necessary, comply with all of the grant terms and conditions.

4.2.3 A project baseline and initial cashflow will be submitted to HE as part of accepting the grant funding. SCC will then report progress against the key milestones, outputs, and expenditure profile.

### 4.3 Legal Implications

- 4.3.1 The Council can accept the capital grant of £3,219,272 from Homes England's Housing Infrastructure Fund, Marginal Viability Fund Programme, under s.31 of the Local Government Act 2003.

The grant funding agreement brings with it certain obligations and terms and conditions, which the Council will need to meet. It also has a number of pre-contract conditions and pre-conditions to funding, such as:

- The Council must provide HE with an opinion on state aid compliance from an independent state aid specialist lawyer.
- Written confirmation to be provided by Sheffield Housing Company (SHC) that it is willing to deliver the scheme at a profit level of 7.25% on GDV and it has approval to do so.
- Homes England has approved the Cashflow.
- The Local Authority to procure that SHC provide HE with satisfactory evidence of SHC Board approval for the scheme business case
- The Local Authority to provide suitable evidence that outstanding site investigations have been concluded satisfactorily and provide evidence of a re-appraisal of the scheme viability thereafter, sharing the outcome with HE.
- The Local Authority to confirm that an acceptable, viable business case has been presented to them.

The Council must comply with the terms and conditions of the grant funding agreement, some of the key terms of the agreement are:

- The Council may seek to deliver the Project by directly procuring contractors to deliver the HIF Funded Infrastructure Works, or by providing funding to developer-partners/ third parties who will procure such works themselves.
- There will be a restriction on title in favour of HE requiring HE consent to dispositions made in relation to the Site.
- HE have the right to terminate the contract immediately, in certain circumstances, for example should the Council fail to meet any milestones/ outputs or commits a breach incapable of remedy.
- HE can clawback, suspend or withhold any funds paid to the Council on an event of default or clawback any overpayment of funds. They can also require the Council to remedy any breach or event of default.

In accepting the grant and moving forward with the suggested proposals within the report the Council will need to obtain further decisions, at a later date. This will be to move forward with granting the HIF monies, it receives from HE, to SHC under a 'back to back' grant funding agreement with SHC. This 'back to back' agreement will mirror the grant funding agreement from HE. The agreement will allow the Council to pass on the obligations it has with HE to SHC, including the conditions on clawback of funds and timings for spending the grant funds on the works. This will ensure the Council is protected should the funds need to be clawed back from HE.

The Council will also need approval to vary the intercreditor deed and any other related agreements linked to the Councils arrangements with SHC. The Council will ensure that within the intercreditor deed it has a priority payment over any returns against loans and distributable profits. The Council will also ensure, within these legally binding arrangements with SHC, that should any profit be made over the permitted GDV then those profit funds will be the subject of clawback by the Council, as a priority payment. These funds will be ring fenced and the Council will need HE consent on what it can spend these funds on.

The land value of the said land is not yet fixed, should this be calculated at more than £1 the Council will have to ring fence the land value and then come to an agreement with HE as to how these ring fenced monies are spent.

The Council is required to ensure that is compliant with all procurement regulations and EU state aid requirements.

Any future grant agreement, or related agreements, along with any variations to existing agreements held, including the intercreditor deed, will be subject to further approvals, in accordance with the Leaders Scheme of Delegations.

#### 4.4 Other Implications

4.4.1 There are no other implications.

### **5. ALTERNATIVE OPTIONS CONSIDERED**

5.1 SHC have considered phased delivery of these sites alongside more profitable developments in an attempt to produce a viable business case. However, this has not been possible due to the size of the viability gap.

5.2 Lower cost specifications and increased density have been explored. This would result in lower overall quality of the housing development and wouldn't meet the requirements the Council has set as landowner in the project briefs.

## **6. REASONS FOR RECOMMENDATIONS**

- 6.1 Accepting the grant funding will enable housing development on these 4 sites over the next 5 years. This will provide good quality family homes in an area where a wider mix of tenures is needed to ensure the future sustainability of the neighbourhood.
- 6.2 In order to maximise cost efficiencies on this scheme, it's essential that the development follows on from the current Phase 2 work on Manor 10 & 11 sites. This can only happen if SHC are able to maintain the delivery programme submitted to Homes England and the funding is secured.
- 6.3 351 new homes over the next 5 years will make a significant contribution to the Council's new housing targets as detailed in the New Homes Delivery Plan.