

Committee: Cabinet

Date of meeting: 23 July 2020

Title of Report: Carlisle Southern Link Road Housing Infrastructure Fund Grant Determination Agreement

Report by: Angela Jones, Executive Director - Economy and Infrastructure

Cabinet Member: Councillor Keith Little, Portfolio Holder for Highways and Transport

1. What is the Report About? (Executive Summary)

- 1.1 The report seeks approval for the Council to enter into a Grant Determination Agreement (GDA) with Homes England for £134m of grant funding from MHCLG's Housing Infrastructure Fund (HIF) and for the Council to commit to the delivery of the Carlisle Southern Link Road (CSLR). The CSLR is required to facilitate the development of 10,325 new homes at St Cuthbert's Garden Village (SCGV) to the south of Carlisle and will also play a vital role in supporting the economic recovery of Carlisle and Cumbria post COVID-19.
- 1.2 The GDA is a tripartite agreement between Homes England (on behalf of MHCLG), Cumbria County Council and Carlisle City Council. The terms and conditions of the GDA are summarised in this report and a copy of the final GDA is attached at Appendix 1 and 2. The principal terms and conditions of the GDA include:
 - a) £5m funding contribution towards the scheme costs from the County Council (agreed at Cabinet on 26 July 2018 and Council on 5 September 2018) and £5m funding contribution from Carlisle City Council.
 - b) Management and responsibility for delivery and any associated cost-over-runs will be the responsibility of the County Council.
 - c) Capital receipts from the sale of County Council land at Cummersdale will contribute to the Garden Village infrastructure costs (including CSLR if required).
 - d) A maximum HIF grant of £134m, will be provided towards a scheme cost of £144m, conditional on defrayal of HIF expenditure before 31 March 2024.
 - e) Acquisition of the land required to build the road, including a Compulsory Purchase Order
 - f) Preparation of a Housing Delivery Statement and Local Plan for SCGV by the City Council including an agreed approach with Homes England for land value capture to enable development of the Garden Village and 10,325 new homes by 2049.
 - g) Finalisation and agreement of certain GDA supporting documents with Homes England by the 11 September 2020.
 - h) The completion of a Collaboration Agreement with Carlisle City Council in relation to the respective roles and responsibilities. The draft Agreement is attached at Appendix 3.

2. Recommendation of the Executive Director

2.1 It is recommended that Cabinet agrees to:

- a) Enter a Grant Determination Agreement with Homes England to receive £134m of grant funding towards the scheme costs of the Carlisle Southern Link Road in line with the agreement attached at Appendix 1 and 2.
- b) Delegate authority to the Executive Director Economy and Infrastructure in consultation with the S151 Officer, Monitoring Officer, Leader, Deputy Leader and Portfolio Holder for Highways and Transport to approve any necessary, minor amendments to the Grant Determination Agreement prior to its completion and to provide to Homes England the supporting documents for the Schedules and Annexures by the 11 September 2020.
- c) Enter a "Collaboration Agreement" with Carlisle City Council prior to completion of the Grant Determination Agreement confirming its £5m funding contribution to the project.
- d) Delegate authority to the Executive Director Economy and Infrastructure in consultation with the S151 Officer, Monitoring Officer, Leader, Deputy Leader and Portfolio Holder for Highways and Transport to approve any amendments to the draft "Collaboration Agreement" attached at Appendix 3.

3. Background to the Proposals

- 3.1 Cumbria has ambitious plans for economic growth as set out in the LEP's Local Industrial Strategy. Following the global COVID-19 pandemic, CSLR will play a vital role in the economic recovery of the county. However, the biggest economic challenge for the county is addressing the current decline in the working age population. In this regard, St Cuthbert's Garden Village is the single most important project for Cumbria due to its ability to support growth in the local population and thereby contribute to reversing the declining working age population.
- 3.2 The Carlisle District Local Plan seeks to deliver a step change in the character and perception of Carlisle with an ambitious approach to housing delivery. St Cuthbert's Garden Village is central to this approach and to increasing the working age population. The Garden Village provides a long term growth site for Carlisle for delivery of 10,325 new homes over the next 20-30 years.
- 3.3 To facilitate this level of growth, a major infrastructure upgrade is essential. The proposed CSLR will provide a high quality link between Junction 42 on the M6 and the A595 connecting to the Carlisle Northern Development Route and thereby completing an outer ring road for Carlisle. This road is critical in unlocking the development of the Garden Village proposals; providing highway capacity and access to support the delivery of St Cuthbert's Garden Village and wider strategic connectivity from the M6 to the A595 and a more resilient network within the wider Carlisle highway network.

Housing Infrastructure Fund (HIF)

- 3.4 In 2017 the Government launched MHCLG's £5bn Housing Infrastructure Fund (HIF). This fund is intended to support the delivery of significant housing growth and included separate funds, the Marginal Viability Fund for schemes up to £20m in value and the Forward Fund for schemes up to £250m in value. In September 2017, and with the support of Carlisle City Council, a Forward Fund Expression of Interest for the CSLR was submitted to the Government. In two tier local government environments, the Government required that applications to the Forward Fund are made by the upper tier authority.
- 3.5 In March 2018, the Council was advised that the Expression of Interest had been prioritised and was invited to submit a full application. The Council's application was submitted in September 2018 requesting £102m for the delivery of the CSLR supported by a further £10m of developer contributions forward funded by both Cumbria County Council and Carlisle City Council (at £5m each). Following an intensive due diligence process by Homes England in February 2019 it was announced that the HIF application was successful. In April 2019 a letter confirming the award of the grant was received.
- 3.6 There has been an extended period of negotiation on the GDA for CSLR reflecting the scale and complexity of the project. A key part of the negotiation with Homes England has related to the project cost. Following the announcement of the HIF award, the County Council continued to progress the project development work. This led to the submission of the planning application for CSLR in October 2019. In parallel to the submission of the planning application, a cost validation review of the scheme was undertaken and this identified an estimated scheme cost of £136.7m, forecasting a funding short-fall of £24.7m.
- 3.7 As part of the negotiations with Homes England on the GDA, there has been discussion in relation to the impacts of Covid-19 on the scheme delivery timescales as well as options for accelerating delivery to support economic recovery. The initial proposal was to extend the HIF Expenditure date from March 2024 to March 2025. However, in order to support fiscal stimulus, the Council was asked to put forward a proposal that would ensure delivery for March 2024. On 9 June 2020, a 'fast-track' proposal was submitted to Homes England for an additional £32m to cover the funding shortfall (£24.7m) and to accelerate delivery (£7.3m). The benefit of the 'fast-track' proposal for Government is that it removes the uncertainty associated with the previously identified funding shortfall and provides the confidence and commitment for scheme delivery with the associated benefits it will deliver, alongside an accelerated programme that would see all HIF Expenditure completed by the end of March 2024 and practical completion of the road by 31 May 2024.
- 3.8 Confirmation of £32m additional funding was received on 13 July 2020, increasing the grant funding from £102m to £134m. This is subject to contracting of the GDA being complete by 31 July 2020. Recognising that the additional funding was not approved until the 13 July 2020, the GDA contract (Clause 2.5) allows for the finalisation and agreement of certain GDA supporting documents (to be included within the GDA Schedules and Annexures) with Homes England by 11 September 2020.

- 3.9 Although the CSLR is a transport scheme, the HIF grant is being provided on the basis that the CSLR unlocks the housing delivery. In a two-tier area this requires the involvement of both tiers of local government reflecting the different statutory responsibilities. The HIF GDA and the 'Collaboration Agreement' at Appendix 1 and 2 respectively, reflect the outcome of the negotiations with Homes England and the joint working with the City Council who are leading on SCGV.

HIF Grant Determination Agreement (GDA)

- 3.10 The GDA is a tripartite agreement between Homes England (on behalf of MHCLG), Cumbria County Council and Carlisle City Council.
- 3.11 Homes England is providing the HIF grant to unlock the delivery of the 10,325 new homes in the Garden Village. In doing so, the GDA includes various conditions relating to the County Council's responsibilities in relation to the delivery of CSLR as well as conditions that provide assurance for enabling and reporting on housing delivery. The GDA (attached at Appendix 1 and 2) includes the mechanisms through which funding is to be provided for delivery of the CSLR. The key terms and conditions in the GDA are summarised in paragraphs 3.12 to 3.27 below.
- 3.12 **Maximum Sum** – The HIF grant is a Maximum Sum of £134m that has to be spent by the end of March 2024. Homes England has a wide discretion to reduce the Maximum Sum. This includes reducing the Maximum Sum in the event of changes to the Infrastructure Details, Infrastructure Works or Housing Outputs. It can also be reduced if additional income or other sources of financial assistance are provided in relation to the delivery of the CSLR. This is intended to avoid double-funding of the Homes England investment.
- 3.13 Any reduction of the Maximum Sum could result in the County Council having insufficient funding to complete the construction of the CSLR or being required to fund the shortfall from other sources. However, this risk of funding being reduced as a result of changes to the scheme can be mitigated by maintaining regular and comprehensive communications with Homes England delivery team, but also specifically to ensure that any changes to the infrastructure details that are approved will not create a financial risk to the Council.
- 3.14 **Expenditure Date** – The HIF funding is required to be spent by a longstop date of 31 March 2024. As a result of COVID-19 (or other unforeseen events), there is inherent risk in meeting the longstop date. The current programme and expenditure profile forecasts that the HIF grant will have been defrayed by March 2024. Although this is practically achievable, the programme is tight and any unforeseen events could delay forecast expenditure. The longstop date of 31 March 2024 creates the risk that the funding for CSLR would not be available to draw-down in the event that the full grant expenditure is not achieved by 31 March 2024. There are provisions within the GDA to agree a Remediation Plan in the event of a delay to the project, however there is no contractual mechanism for the availability period for HIF expenditure to be extended.

- 3.15 **Milestones** – The GDA allows for a sequenced approach to the release of HIF grant based on a series of Milestones. Grant claims will be submitted to Homes England with evidence of defrayed expenditure and reporting of achievement of the specified Milestones. Grant claims are to be submitted with the approval of the S151 Officer. The expectation is that the County Council and City Council will achieve the Milestones as set out in the GDA. If Milestones are not achieved as set out in the GDA, Homes England can withhold the payment of a grant claim. However, there is provision to agree a Milestone Extension and a Remediation Plan can be proposed to Homes England, which is required to consider the Remediation Plan in good faith with a view to securing the delivery of the scheme.
- 3.16 **Milestone Dates** – The key Milestones are identified in Schedule 1 and Schedule 6 of the GDA. There is a risk register that is maintained for the project as part of the standard project management practice for delivery of the CSLR milestones. This risk register has been disclosed to Homes England and future iterations will form part of the regular reporting on project progress and delivery. As the project remains at a relatively early stage with the appointment of the design and build contractor and the CPO process not yet concluded, the delivery programme has to be approached with a degree of caution, recognising that the accuracy of delivery dates will increase over time. In particular the response of the construction market to the tender process will be key to firming delivery dates.
- 3.17 The County Council is responsible for the Milestones that relate to the CSLR and the City Council is responsible for the Milestones that relate to SCGV. The Collaboration Agreement at Appendix 3 acknowledges the City Council's responsibilities in relation to their Milestone Dates. The key milestones are summarised below:
- Planning determination for CSLR granted – 30 September 2020
 - SCGV Masterplan finalised – 30 November 2020
 - SPD for SCGV adopted – 30 April 2021
 - Evidence of CPO Strategy for CSLR – 30 August 2021
 - Public Inquiries for CSLR are complete – 30 August 2021
 - Final Housing Delivery Statement for SCGV – 30 September 2021
 - All land acquired for CSLR – 31 March 2022
 - Contractual award for the CSLR works – 31 March 2022
 - SCGV Local Plan adopted – 31 July 2022
- 3.18 **Cost Over-Run** – In entering the GDA, the Council will be responsible for the management of the cost over-run risk. A Cost Overrun Strategy (referred to as the Management Plan) is included in the GDA that sets out how this risk will be managed through effective cost management of the project. The proposed contract for the works will include a gain/pain share incentive to reduce the risk of cost over-run but will not eliminate the risk of a cost over-run. The GDA also includes provision for use of 'Recovery Proceeds' to contribute to CSLR cost over-runs if required and this is reflected in the Cost Overrun Strategy. Further detail on Recovery Proceeds is provided in 3.20 below.
- 3.19 **Housing Delivery** – The City Council will be responsible for the on-going monitoring and reporting on the delivery of 10,325 new homes completions up to 2049. Whilst there is no binding obligation to deliver the forecast housing outputs, a Housing Delivery Statement needs to be prepared and approved by Homes

England. The Housing Delivery Statement is an important obligation in the GDA as this will provide the assurance to Homes England that the housing outputs can be delivered. A key aspect of this is the approach that will be adopted by the City Council for land value capture and recovery of proceeds to fund the infrastructure for SCGV. An outline Housing Delivery Statement is attached to the GDA with the final document required by 30 September 2021.

3.20 The final Housing Delivery Statement will detail all aspects of delivery for SCGV including the planning policy framework and proposed delivery model, informed by detailed assessments of the infrastructure requirements, viability, funding, land ownership etc. Given the importance of housing delivery to Homes England, there is a risk of delay to achievement of this Milestone if the Housing Delivery Statement does not provide the necessary assurance on housing delivery. As highlighted above, the GDA includes provision to agree a Milestone Extension in the event of a delay. The delivery and achievement of this Milestone is the responsibility of the City Council and this is reflected in the Collaboration Agreement with the City Council.

3.21 **Recovery Proceeds** – Aligned to the Housing Delivery Statement, Homes England requires that all Recovery Proceeds are reinvested in the delivery of SCGV as well as contributing to any CSLR funding short-fall. Recovery Proceeds includes local authority land receipts, developer contributions and the capture of any other form of land value uplift. The £10m of forward funding contributions from the City Council and County Council would be repaid from the Recovery Proceeds following recovery of Homes England's £134m investment in SCGV. The timing on the repayment of £10m will be linked to the Housing Delivery Statement and the overall viability of SCGV. There is therefore a risk that the County Council's £5m will not be recovered. The Recovery Strategy states that:

Both Councils have committed £5m as forward funding to CSLR on the basis that this will be repaid from future developer contributions made towards the necessary transport infrastructure that will be required by the Garden Village. Both Councils have secured their internal funding approvals for the respective contributions on this basis.

3.22 **Land Receipts** – Recovery Proceeds includes capital receipts from local authority land assets within the Garden Village boundary that are to be contributed to the infrastructure costs of the Garden Village (including CSLR). This would include the capital receipts from the sale of the County Council land at Cummersdale to be invested in the infrastructure costs of the Garden Village (including CSLR). The land is estimated to have a residential value of £3.6m and in entering this GDA, the Council is agreeing to forego this receipt and to reinvest it in CSLR and / or SCGV infrastructure.

3.23 **Events of Default** – The GDA includes two types of default; 'Fundamental Default' and 'General Default'. Although, there is provision for claw-back, in the event that either Council defaults on the terms and conditions of the GDA, this only applies to 'Fundamental Defaults' and there is no claw-back in relation to 'General Defaults'. It should be noted that, unlike the position with General Defaults (see below paragraph), there is no contractual opportunity to remedy Fundamental Defaults.

3.24 **Fundamental Defaults** – In the event of a fundamental default the full value of any grant paid to the Council can be clawed back by Homes England. This could be triggered by the Council doing any act which Homes England thinks could cause it or the funding programme adverse reputation or bring it into disrepute. Homes England has to act reasonably in deciding whether or not a fundamental default has occurred. A fundamental default includes:

- a) *where a report or direction is made against the Council;*
- b) *where a prohibited act under the Bribery Act (or similar) is committed by either Council, the developer or subcontractor; or*
- c) *where something is done which in Homes England opinion causes it adverse reputation by either Council, the developer or contractor/ subcontractor including any employees.*

3.25 **General Defaults** – Although there is no claw-back in relation to General Defaults, there is provision for the HIF grant to be withheld and no further payments made. The triggers for a General Default are wide ranging and include failure to perform any obligation within the GDA, and specifically the failure to achieve a Milestone. Whilst there is provision to agree a Remediation Plan in such an event, Homes England is not required to extend the Milestone beyond the date which is 6 months after the original Milestone. During the period of agreeing a Milestone Extension the release of any further grant payments could be withheld. Although Homes England could agree a Milestone Extension, this could impact on the Council's ability to achieve HIF expenditure by the longstop date, potentially resulting in a reduction to the Maximum Sum.

3.26 **Land Assembly** – By entering the GDA, the Council is agreeing to progress the land assembly for construction of the road, including a Compulsory Purchase Order. A separate report will be made to Cabinet in relation to the commitment to undertake a CPO. However, there is a risk that the land required to build the CSLR cannot be acquired caused by a failed CPO resulting in the CSLR construction not being able to be completed. Landowner discussions are underway with a view to being able to acquire by private agreement the necessary land, and the CPO will only be required if all the necessary land cannot be assembled in this way. If there are delays with the CPO and the land is not assembled in time, the Council will have the option to agree a Milestone Extension with Homes England.

3.27 **Collaboration Agreement** – The GDA refers to a "Collaboration Agreement" between the County Council and the City Council that is to be completed before the GDA is completed. The draft Collaboration Agreement is provided as Appendix 3 to this report. The key points are:

- a) Confirm the role of Cumbria County Council and Carlisle City Council in leading the CSLR and SCGV projects respectively
- b) Confirm the City Council's £5m contribution to the County Council during 2022/23
- c) Provide an obligation on Carlisle City Council to recover the £10m of up-front funding by the Councils through developer contributions as part of the Housing Delivery Statement
- d) Sets out the role of Carlisle City Council in discharging conditions and milestones relating to SCGV within the GDA and includes specific reference to their responsibilities in relation to the Housing Delivery Statement.

- e) Requires Carlisle City Council to monitor housing completions as required within the GDA
- f) The City Council accepts responsibility for any cost over-runs or funding short-falls arising as result of their responsibilities in relation to the GDA

4. Options Considered and Risks Identified

Option (a) – Agree Recommendations

- 4.1 This option will allow the GDA to be completed and the development and delivery of CSLR to proceed. There are a number of terms and conditions associated with entering the GDA, as outlined in paragraphs 3.12 to 3.27 above, which should be taken into account in making the decision to enter the GDA. Whilst the GDA contains a number of obligations, the principal risk to the Council in entering the GDA is a financial risk. The financial implications of the GDA are detailed further in Section 6 of this report and include:
- Level of funding
 - Project expenditure delay
 - Responsibility for cost over-runs
 - Potential for claw-back
- 4.2 Recognising the financial risks posed by the GDA, the Council will take a proactive approach in the management of the project working closely with Homes England and Carlisle City Council to minimise the likelihood of the financial risks materialising.

Option (b) – Do not Agree Recommendations

- 4.3 In this option, Cabinet could decide not to agree with the recommendations and not progress any further with the CSLR. The consequence of this would be that the project spend to date would need to revert from capital to revenue expenditure. The expenditure to date incurred by the Council is £4.373m (to 31st March 2020) and £4.450m (to 30th June 2020) against the £5.640m CSLR capital budget. Some of this expenditure £0.587m relates to the purchase of land and buildings, which may remain as capital expenditure, but the remainder would be determined as 'sunk costs' and would have to be written back and charged to the revenue budget and be funded from revenue reserves. This would require the Provisional Accounts for 2019/20 to be amended in respect of expenditure incurred to 31st March 2020. Expenditure from 1st April 2020 would be met from the 2020/21 revenue budget.
- 4.4 Furthermore, as a result of not proceeding with the GDA, the county would have lost the opportunity to secure investment into infrastructure to support economic growth. The delivery of the CSLR has large economic growth benefits for Cumbria in terms of housing delivery through the unlocking of St Cuthbert's Garden Village, but it will also deliver improved east-west connectivity, particularly to West Cumbria. The impact on planned housing growth if the project does not proceed would be detrimental, as CSLR is essential to unlocking St Cuthbert's Garden Village, as the existing road network cannot support the 10,325 housing target. Without CSLR it would only be possible to deliver approximately 1,500 houses. A decision not to enter the GDA would therefore have significant consequences for the Council's reputation with Government and

other stakeholders undermining the Council's credibility and ability to secure funding for other schemes in the county.

5. Reasons for the recommendation/Key benefits

5.1 The HIF investment will deliver significant capital investment and fiscal stimulus into the local and national economy creating construction jobs and associated supply chain benefits in the local economy to support the economic recovery. Longer term this project is seen as critical to supporting the levelling-up agenda through unlocking housing growth with over 10,000 new homes in St Cuthbert's Garden Village. This project is vital to Carlisle, Cumbria and the Borderlands, in being able to grow our population and reverse the trend of declining working age population.

5.2 The process for developing the GDA has included a prolonged period of negotiation with Homes England resulting in the best possible outcome for the Council being achieved. Whilst there remain a number of risks with the project, it is recommended that the Council enters the GDA in recognition of the following benefits:

- It will secure the £134m of external funding investment that has been allocated from the Government's HIF programme
- The funding supports the delivery of the CSLR and thus enables the delivery of SCGV to help Carlisle and Cumbria to increase the working age population
- The road will improve strategic east-west connectivity in and around Carlisle and improve the infrastructure capacity to support the economic growth of Carlisle

5.3 As outlined above, the GDA includes a number of risks that need to be balanced against the longer term benefits. The GDA places onerous obligations on the Council to ensure delivery in order to achieve value for money for the HIF investment. However, the GDA also includes provision for regular reporting and monitoring of project delivery and it is understood that Homes England will work collaboratively with the Councils to ensure the project can be delivered successfully. It is this partnership approach that will be critical to the management of the financial risks associated with the GDA.

6. Financial – What Resources will be needed and how will it be Funded?

6.1 The recommendation of this report is for Cabinet to agree to enter into a Grant Determination Agreement (GDA) with Homes England to receive £134m of Housing Infrastructure Funding (HIF) towards the construction of the Carlisle Southern Link Road (CSLR). To not proceed further with the scheme, costs incurred to date funded from the capital budget would be determined as 'sunk costs' and would need to be funded from revenue sources. This is explained in paragraph 4.3.

6.2 In agreeing to enter the GDA, the Council will be making the following financial commitments:

- a) A forward funding contribution of £5m towards the scheme costs. Repayment of this funding would be from future developer contributions subject to viability

of the SCGV. This will be detailed in the Housing Delivery Statement that is to be completed by September 2021. There is a risk that this forward funding contribution is not recovered.

- b) Agreement to forego a capital receipt from sale of Council owned land at Cummersdale (estimated to be £3.6m) and for reinvestment of the receipt in the infrastructure costs associated with SCGV and/or CSLR (if required).
- c) Responsibility for the management of cost over-run risk.

6.3 In return for the above commitments, the Council will secure £134m of HIF investment to support delivery of a nationally significant project through entering the GDA. However, this investment comes with a number of terms and conditions with associated financial implications and risks.

6.4 **Level of funding** – Homes England has the discretion to reduce the value of the grant of £134m. Paragraph 3.12 sets out the mitigation strategy in respect of this risk to the Maximum Sum. To avoid double-funding, the Maximum Sum could be reduced if income is provided from alternative sources in relation to the infrastructure works. There is provision elsewhere in the GDA that allows for any income from Recovery Proceeds to cover any additional costs for CSLR over and above the forecast scheme cost of £144m and would mitigate this risk in relation to a reduction of the Maximum Sum.

6.5 **Project expenditure delay** - Should the Council progress with the project, the GDA requires that the Council must spend the full £134m provided by Homes England by 31 March 2024. Current assumptions are that the Council will have spent the full £134m by 31 March 2024. If this spend date cannot be achieved, this failure also risks there being a 'general' default. The completion of construction of the road can follow and is planned by the end of May 2024. However, if there are significant delays and the HIF funding is not defrayed before 31 March 2024 this creates the risk that the Council would only be able to claim the expenditure incurred up to that point. There are provisions within the GDA to agree a 'remediation plan' in the event of a delay to the project, however there is no guarantee the availability period for HIF expenditure will be extended beyond March 2024. There are also mitigations to be reflected in the construction contract, with the opportunity to build in 'delay damages' for project delivery overruns to help mitigate the risk of delay in completion.

6.6 **Responsibility for cost over-runs** – In entering the GDA, the Council will be responsible for all cost over-runs. The scheme cost estimate will not be confirmed until October 2021 when tender returns from the contractors and further detailed design work have been undertaken, therefore there will remain a cost risk for the construction contract. If a cost over-run materialises the Council will need to fund any shortfall, this however, cannot be quantified at this stage. The proposed approach for management of this cost risk is set out in the Cost Over-run Strategy provided to Homes England as a Pre Commencement Condition.

6.7 **Potential for claw-back** – Paragraph 3.23 explains that there are fundamental default provisions in the GDA. Where a 'Fundamental Default' is established, Homes England can not only reduce the Maximum Sum available to the Council but can also clawback monies already paid. If claw-back was invoked monies would need to be found from Council resources.

- 6.8 The above financial risks have to be considered in the context of the Council's current financial position. The following should be noted in relation to the availability of funding within current budgets:
- a) Currently the revenue budget dedicated to highways maintenance is £26.026m with £6.065m within Local Committee budgets and £19.961m within the Economy and Infrastructure Directorate budget (principally CNDR £13.9m and Winter Maintenance £3.9m).
 - b) The highways capital budget is funded from the DFT Integrated Transport Block and Highways Maintenance Block (needs and incentive elements) grant of £28.875m and specific contributions and grants for specific highways improvements. These specific sources of funding are ring-fenced. DFT grant is related to annual performance assessment and is subject to annual approval by DFT.
 - c) The Medium Term Financial Plan (2020-2025) agreed in February 2020 set out a cumulative Revenue Budget gap for the financial year of £34.5m compared to the balanced budget set for 2020/21. This was based on a set of assumptions, principal amongst these being that the Fair Funding Review of local government finance would be implemented from 1st April 2021 and that it would result in no less core funding for Council services from various government grants and the share of locally generated business rates than in 2020/21. The Fair Funding Review has been paused in the light of COVID-19 and the government has indicated further detail will follow, expected in the autumn.
- 6.9 Upon entering the GDA, the Council will be able to make an immediate claim to draw-down the expenditure incurred to date. This will enable the Council to claim up to £4.8m of expenditure from Homes England payable on completion of the GDA on 31 July 2020. However, this funding will need to be reinvested, as part of the Council's £5m contribution to the scheme, which will be spent after the HIF funding has been fully spent.
- 6.10 Should Cabinet agree to the recommendations of this report, and the road be constructed, maintenance of the route would be the responsibility of the Council. For illustrative purposes, the consequential estimated increase to the DFT capital grant, given current formula would be in the region of £75k per annum. Annual revenue maintenance requirements of the road would be confirmed as part of scheme design, an initial estimated maintenance cost based on road length would be £40k per annum. The construction of new homes should increase the overall net Council tax base of the county and result in additional Council tax revenues to fund Council services. The delivery of homes is a long term activity, with new home completions projected up to 2049.
- 6.11 In conclusion, agreeing the GDA carries financial implications and risks. The report sets out the opportunities for economic regeneration as a result of the provision of the CSLR and the associated development of the Garden village. The approach to mitigating the key risks associated with the project are set out elsewhere. As with all significant infrastructure projects, CSLR presents both upside and downside risks.

7. Legal Aspects – What needs to be considered?

- 7.1 The legal considerations associated with entering into the GDA are set out in detail above and in the Risk Report included at Appendix 4. By agreeing to the recommendation, Cabinet is giving authority to the Executive Director – Economy & Infrastructure to enter into the GDA with the associated benefits and risks as set out above, along with the discretion to negotiate the final form of the GDA. Such negotiations will not change over-arching principles, but key dates, amongst other things, may change.
- 7.2 It is noted above that Homes England has a wide discretion to reduce the Maximum Sum available for HIF grant of £134m. Any reduction of the Maximum Sum is likely to result in the County Council having insufficient funding to complete the construction of the CSLR or being required to fund the shortfall from other sources. Some mitigations are set out above but Cabinet should be aware that this wide discretion to reduce the maximum sum payable means a reduction could be imposed simply because of a change in government policy towards HIF. However, the most obvious risk in respect of reduction of the Maximum Sum is around the failure to complete the construction of the CSLR by 31 May 2024. Members may consider it unlikely in practice that Government would reduce the funding available for an almost complete CSLR. It is important though that Members are clear that Homes England could, contractually, reduce the Maximum Sum even at a late stage in construction. Whilst this is by no means an unusual clause in such agreements, Members will need to be take this risk into account if it takes the recommended decision.
- 7.3 Similarly, the Fundamental Default provisions are cast widely and it is arguable that a number of eventualities, especially around delay to the project, could give rise to a Fundamental Default. Where a Fundamental Default is established, Homes England can not only reduce the Maximum Sum available to the Council but also clawback monies already paid. Again, Members may consider it unlikely that Government would make use of such contractual mechanisms and mitigations to such risks are set out above. Also, the Council would argue that such draconian measures should only be used in respect of commensurate events. It is important though that Members are clear that this risk is to be taken into account if it takes the recommended decision. For the avoidance of doubt, it is unlikely that these risks can be deferred to other parties involved in the CSLR project.
- 7.4 Cabinet is authorised to approve receipt of external grant funding (paragraph 2.1(f) of the Part 2B of the Constitution) and can therefore delegate that authority to enter into the Grant Funding Agreement on the basis set out in the recommendation.

8. Health & Safety Implications

- 8.1 The Council has a responsibility under the Health & Safety at Work Act 1974 to ensure, as far as is reasonably practicable, that adequate health and safety provisions are in place. In addition the development of the design and planning of the project will be undertaken in accordance with the “Construction Design and Management Regulations 2015”.

8.2 If approved by Cabinet, the County Council will take responsibility for the construction of Carlisle Southern Link Road and the associated construction deliverables outlined in the report. The County Council will therefore also need to work with Carlisle City Council and construction contractors to ensure that adequate health and safety provisions are in place throughout the project.

9. Council Plan Priority – How do the Proposals Contribute to the Delivery of the Council’s Stated Outcomes?

9.1 Delivery of the CSLR will have an important role in supporting the delivery of the Council Plan objectives:

- The economy in Cumbria is growing and benefits everyone – The CSLR will unlock the St Cuthbert’s Garden Village and improve east west connectivity therefore promoting economic growth in West Cumbria.
- Places in Cumbria are well-connected and thriving – The CSLR will improve east west connectivity and promote thriving communities and businesses.
- People in Cumbria are healthy and safe – The CSLR will promote healthy travel choices including walking and cycling provision along its entire length with links into existing cycling and walking networks.

10. What is the Impact of the Decision on Health Inequalities and Equality and Diversity Issues?

10.1 The CSLR scheme development included a statutory 12 week period of public consultation and the outcomes of this has influenced the development of the scheme. The planning application that was submitted in October 2019 for CSLR included an Environmental Statement that included a Health Considerations Summary Report as a supporting document.

Appendices and Background Documents

Appendix 1 – Grant Determination Agreement (enclosed)

Appendix 2 – Schedules and Annexures to Grant Determination Agreement (**copy enclosed for members only**) –**Not for publication by virtue of Paragraph(s) 3 of Part I of Schedule 12A of the Local Government Act 1972, as this report contains exempt information relating to the financial or business affairs of any particular person (including the authority holding that information)**

Appendix 3 – Collaboration Agreement with Carlisle City Council (copy to follow)

Appendix 4 – Risk Report for Grant Determination Agreement (**copy enclosed for members only**) –**Not for publication by virtue of Paragraph(s) 5 of Part I of Schedule 12A of the Local Government Act 1972, as this report contains exempt information in respect of which a claim to legal professional privilege could be maintained in legal proceedings)**

Key Facts

Electoral Division(s): Wetheral, Dalston and Burgh

Executive Decision	Key Decision Included in Forward Plan	Exempt from call-in	Exemption agreed by scrutiny chair	Considered by scrutiny, if so detail below	Environmental or sustainability assessment undertaken?	Equality impact assessment undertaken?
Yes	Yes	Yes	No	No	No	No

Approved by the relevant Cabinet Member/s

Draft Cabinet report shared and discussed with Lead Members on 15 July and 20 July 2020.

Previous relevant Council or Executive decisions

CSLR Preferred Route Decision, Cabinet, 21 June 2018.

CSLR Submission of the Outline Business Case to the Housing Infrastructure Fund, Cabinet 26 July 2018.

CSLR Inclusion of CCC £5m contribution into the Capital Programme, Council 5 September 2019.

Consideration by Overview & Scrutiny

N/A

Background Papers

None

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