

# Economy and Growth Committee

## Agenda

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<b>Date:</b>	<b>Tuesday 12th September 2023</b>
<b>Time:</b>	<b>2.00 pm</b>
<b>Venue:</b>	<b>Committee Suite 1,2 &amp; 3, Westfields, Middlewich Road, Sandbach CW11 1HZ</b>

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the top of each report.

It should be noted that Part 1 items of Cheshire East Council decision making are audio recorded and the recordings will be uploaded to the Council's website

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

To note any apologies for absence from Members.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Minutes of Previous Meeting** (Pages 3 - 10)

To approve as a correct record the minutes of the meeting held on 10 July 2023.

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For requests for further information

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4. **Public Speaking/Open Session**

In accordance with the Council's Committee Procedure Rules and Appendix on Public Speaking, a total period of 15 minutes is allocated for members of the public to put questions to the committee on any matter relating to this agenda. Each member of the public will be allowed up to two minutes each to speak, and the Chair will have discretion to vary this where they consider it appropriate.

Members of the public wishing to speak are required to provide notice of this at least three clear working days' in advance of the meeting.

5. **Farms Policy** (Pages 11 - 22)

To consider the report on the process to refresh the policy for the Council's farms estate.

6. **Handforth Garden Village Progress Update** (Pages 23 - 56)

To consider the update report on the Handforth Garden Village.

7. **Work Programme** (Pages 57 - 58)

To consider the Work Programme and determine any required amendments.

**Membership:** Councillors D Brown, J Clowes, A Critchley, B Drake, M Goldsmith (Chair), M Gorman, A Heler, N Mannion (Vice-Chair), G Marshall, C Naismith, C O'Leary, P Redstone and F Wilson.

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Economy and Growth Committee**  
held on Monday, 10th July, 2023 in the Council Chamber, Municipal Buildings,  
Earle Street, Crewe CW1 2BJ

**PRESENT**

Councillor M Goldsmith (Chair)  
Councillor N Mannion (Vice-Chair)

Councillors D Brown, J Clowes, L Crane, A Critchley, M Gorman, A Heler,  
G Marshall, C Naismith, C O'Leary, P Redstone and J Rhodes

**OFFICERS IN ATTENDANCE**

Peter Skates, Acting Executive Director of Place  
Karen Carsberg, Head of Housing  
Charles Jarvis, Head of Economic Development  
Andy Kehoe, Head of Estates  
David Fenton, Housing Options Manager  
Jez Goodman, Development & Regeneration Manager  
Steve Reading, Finance Officer  
Mandy Withington, Team Manager Legal Services  
Rachel Graves, Democratic Services Officer

**9 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors B Drake and F Wilson.  
Councillors L Crane and J Rhodes attended as substitutes.

**10 DECLARATIONS OF INTEREST**

Councillor C O'Leary declared an interest in Item 5 – Recommissioning of  
Housing Related Support Contracts and stated that he would not take part  
in the vote on this item.

In relation to Item 16 – Royal Arcade Phase 2, Crewe, Councillors N  
Mannion and J Rhodes declared that they were members of Crewe Town  
Board.

**11 MINUTES OF PREVIOUS MEETING****RESOLVED:**

That the minutes of the meeting held on 6 June 2023 be approved as a  
correct record.

## **12 PUBLIC SPEAKING/OPEN SESSION**

There were no public speakers.

## **13 RECOMMISSIONING OF HOUSING RELATED SUPPORT CONTRACTS**

The Committee considered a report on the recommissioning of the Housing Related Support Contracts.

The current contracts expired on 31 March 2024. Although there was an opportunity to extend these contracts for a further year, changes had taken place in the housing related support market environment due to the challenging financial pressures. A review had been undertaken of commissioned and non-commissioned services which had concluded that recommissioning would provide more targeted services to meet the current and future needs of the residents of Cheshire East.

There was discussion on the provision of services and the engagement of those residents with experience of homelessness in the commissioning process. It was also asked if handy persons services was provided and if housing related support for those with learning or physical disabilities was available, and also for women experiencing homelessness. It was reported that as part of review by Homeless Link consultation had taken place with organisations and individuals who worked with homeless people, and with people with experience of accessing housing related support in Cheshire East. It was confirmed that a handypersons service was provided by Orbitas, and that Adult Social Care were responsible for commissioning services for people with learning or physical disabilities and also provided support for those experiencing domestic violence.

Having previously declared an interest Cllr C O'Leary took not part in the vote on the recommendations.

### **RESOLVED (unanimously):**

That the Committee

- 1 approve the recommissioning of the services as outlined within this report from 1<sup>st</sup> April 2024 using an open procurement process for an initial term of 5 years, with the option to extend for up to a further 2 years at a total contract value of £5,831,000
- 2 delegate authority to the Director of Growth and Enterprise to award the contracts following the procurement process in line with financial delegations.

## **14 CHESHIRE EAST COMMON ALLOCATIONS POLICY REVIEW**

The Committee considered the report on the review of the Cheshire East Common Allocations Policy Review.

The current Policy had been approved in 2018 with minor amendments in the subsequent years to bring the Policy in line with legislation. Over the past few months housing staff had been informally consulting with partners in relation to the existing policy and areas of improvement. Comments, compliments and complaints about the Policy have also been considered.

The sections of the Policy for amendment were set out in paragraph 11 of the report with the Appendix to the report setting out the reason and amended policy wording.

A 12 week period of consultation would be undertaken from 25 July to 10 October 2023 using a number of mechanisms including an on-line questionnaire, internal and external briefing sessions and promotion through social media, press releases and direct communication with existing customers. The final draft Policy would then be presented to the Committee for adoption.

**RESOLVED (unanimously):**

That the Committee

- 1 note the proposed amendments to the Cheshire East Common Allocations Policy.
- 2 authorise officers to publicly consult on the revised draft policy for a period of 12 weeks.
- 3 note the final version of the revised policy following consultation will be brought back to the Economy and Growth Committee for approval to adopt.

**15 FINAL OUTTURN 2022/23**

The Committee received the report which provided an overview of the Cheshire East Council provisional outturn for the financial year 2022/23 and the financial performance of the Council relevant to the committee remit.

**RESOLVED (by majority):**

That the Committee

- 1 note the report of the Corporate Policy Committee Consider the financial performance of the Council in the 2022/23 financial year relevant to their terms of reference.
- 2 note the delegated decisions relating to supplementary revenue estimates for specific grants coded directly to services in

accordance with Financial Procedure Rules as detailed in Section 2 of each Committee Appendix (Annex 2).

- 3 note the update on performance with regard to the MTFs 2023-27 approved budget policy change items, in respect of Services within the remit of the Committee (Annex 3).

## 16 **2022/2023 ANNUAL PERFORMANCE REVIEW - GROWTH AND ENTERPRISE**

The Committee considered the 2022/23 Annual Performance Review report for the Economy and Enterprise Department.

The report detailed the performance against the key priorities and key performance indicators of services in Housing, Estates, Rural & Cultural Economy and Economic Development.

The Director of Growth and Enterprise highlighted that

- the Housing Team continued to work hard to provide effective customer focused frontline services to ensure residents were prevented from becoming homeless and provided help to find accommodation. The Housing Options Team had achieved Domestic Abuse Housing Alliance accreditation in June 2022. The Housing Options Team had led on providing housing support to Afghan and Ukrainian refugees.
- the Estates Team continued to support the Council's Medium Term Financial Strategy by surpassing the annual capital receipts target. The Team had undertaken work to decarbonise buildings across the estate in support of the Council's Carbon Neutral Project.
- In the Rural and Cultural Economy Team the Countryside Ranger Service had been working with the Public Rights of Way Team to improve access to the wider countryside. The Ranger Service had received Green Flag awards at Teggs Nose Country Park, Brereton Heath Local Nature Reserve and Macclesfield Riverside Park. Tatton Park had received Green Flag and Green Heritage Site awards and also won Business Venue of the Year award.
- the Economic Development Team had focused on town centre projects such as the re-developments in Crewe town centre and the creation of Town Centre Vitality Plans. The Handforth Village Green had obtained planning consent in January and development of the plans were underway.

The Committee commented on the Annual Performance Report and asked about the County Farms strategy. In response it was reported that a report was being brought to the September meeting of the Committee on this.

### **RESOLVED:**

That the Committee note the performance of the Growth and Enterprise Department during the year 2022/2023.

## **17 WORK PROGRAMME**

The Committee considered the Work Programme for the 2023/24 municipal year.

It was reported that items relating to the County Farm Estates and for the Handforth Garden Village would be added to Work Programme for the September 2023 meeting. Once the consultation on the revised Cheshire East Common Allocations Policy was complete, it was expected that this Policy would come to the January 2024 meeting for approval.

### **RESOLVED:**

That the Work Programme be noted.

## **18 HOUSING DEVELOPMENT FRAMEWORK - UPDATE**

The Committee considered the report which provided an update on progress with the Housing Development Framework.

The Committee had previously agreed a number of sites to be disposed of through the Housing Development Framework and the Appendix to the report provided an update on the individual sites.

One of the proposed housing development sites currently had allocated Future High Street funding. It was reported that it would not be possible to meet the current government deadline and therefore approval was sought to re-allocate the funding to other Future High Street projects.

During consideration of the report it was proposed and seconded that the Committee move into Part 2 to allow consideration of the confidential appendix.

## **19 EXCLUSION OF THE PRESS AND PUBLIC**

### **RESOLVED:**

That the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1,2, 3, 5 and 7a of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

## **20 HOUSING DEVELOPMENT FRAMEWORK - UPDATE**

The Committee the confidential appendix which provided an update on the sites proposed for disposal through the Housing Development Framework.

**RESOLVED (by majority):**

That the Committee

- 1 note the contents of the report.
- 2 delegate authority to the Director of Enterprise and Growth to ;
  - (a) determine and pursue the most appropriate delivery route for each Council owned site identified and appropriated for Council-influenced housing development (including but not limited to use of the Housing Development Framework, open market procurement, land deal or joint venture) and, subject to obtaining disposal approval in accordance with the decision making processes for land and property disposals as set out in the Constitution, enter into all necessary legal agreements to enable the site to be developed accordingly;
  - (b) remove individual sites from the Housing Development Framework process should they no longer be identified and appropriated as Council owned sites for Council-influenced housing development.
  - (c) manage the Housing Development Framework and, if necessary, remove any admitted organisations found not to be meeting the terms of admission onto the framework.
- 3 subject to approval by the Government's Department for Levelling Up, Housing & Communities (DLUHC), delegate authority to the Executive Director Place in consultation with the Director for Finance & Customer Services to approve the reallocation of up to £2,836,646 Crewe the Future High Street Fund (FHSF) grant earmarked for the In Town Living project to other projects in the FHSF programme, and authorise the use of this funding to continue implementation of projects previously identified in the report to Cabinet 10th November 2020.

**21 ROYAL ARCADE PHASE 2, CREWE**

The Committee considered the report on the Royal Arcade Phase 2.

**RESOLVED:**

That the Committee

- 1 note the contents of the report
- 2 ask officers to bring back a detailed report on Phase 2
- 2 approve the delegation as per the recommendation.



The meeting commenced at 10.00 am and concluded at 12.55 pm

Councillor M Goldsmith (Chair)

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## **Economy and Growth Committee**

**12 September 2023**

### **Farms Policy**

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**Report of: Peter Skates Interim Executive Director Place**

**Report Reference No: EG/16/23-24**

**Ward: ALL**

#### **Purpose of Report**

- 1 The purpose of this report is to commence the process to refresh the policy for the council's farms estate.
- 2 It sets out some general options to consider in this process and sets out the approach that the service suggests that it could take in developing the policy.
- 3 Following this process, it is intended to bring a decision report to the Committee, so it can set the policy for the estate going forward.
- 4 Taking this approach allows the Council to be open around how it develops its policies.

#### **Executive Summary**

- 5 The Council owns c4,800 acres of farmland set out in 16 clusters (called estates) across the borough, broken into 49 farms. This non statutory service has been delivered in this way for over 100 years.
- 6 The elemental reason to hold a farms estate is to allow new entrants into the farming industry. As part of the fabric of farming in the borough for over 100 years it also gives the Council some additional influence it would not have if it were not a landowner in the rural community.
- 7 The current policy was set in 2012 and reviewed in 2018. The current policy sees the Council offer modern tenancies (usually 15 years) to new

entrants on larger, more economic, holdings. To achieve this the estate is being reorganised as older types of tenancy, typically retirement or lifetime tenancies, expire on an opportunistic basis. Over time the number of lifetime tenancies has reduced to about 33% by area of the estate. As part of this work, some farm buildings and ancillary land are made surplus and released from the estate.

- 8 Although the current approach was reviewed in 2018, confirming its suitability, there have been several changes that may impact the Council's approach to its farm landholdings since this time. Some of these include:
- (a) The way Central Government approaches farming continues to emerge,
  - (b) The Council has pledged to be carbon neutral by 2025 and to use its influence to assist the Borough to be carbon neutral by 2045.
  - (c) The Council finds itself in a fundamentally different economic position that it has been in the past with increasing pressures on its capital and revenue budgets.
- 9 Therefore, the time is right to consider the Council's approach to its farming estate.

#### RECOMMENDATIONS

The Economy and Growth Committee is recommended to:

1. Approve that a review of the Farms Policy is undertaken and engagement with key stakeholders is progressed.
2. Approve the setting up of a Member Advisory Group to give direction, receive evidence, and advise on the options and enable a draft revised policy for 2024/2025.
3. Note that a further report will be presented to Committee outline the outcome of the review and seeking endorsement to a new policy

## Background

- 10 The Farms Estate comprises 4,830 acres of land and associated property, predominantly leased out. Approximately 33% of the estate by area or 26 farms, is let within historic retirement or lifetime tenancies and approximately 63% by area of the estate, or 23 farms let with the more modern fixed termination date, with leases to tenants of usually 15 years. The estates generate a gross income of approx. £778k.
- 11 With a history of over 100 years, the service has remained remarkably true to its originating role and the Council's current policy position continues to support entrants into the farming requiring the tenants to manage land in a manner that balances economic and good environmental practice. The statutory basis on which the service is provided is not mandatory and the authority must therefore choose to provide same.
- 12 Tenancies have evolved to respond to Council objectives and whilst most continue to deliver farms that provide an example of good practice but there is still sizeable proportion that are occupied under older tenancies that are no longer consistent with modern practices and limited likelihood of change other than by natural movement over time.
- 13 Lack of supply remains one of the most significant hurdles for new entrants into the farming industry. The Council's 49 farms offer an opportunity for new entrants, or those developing their businesses within the estate to grow. Table 1 shows the number of new tenancies that have been granted since 2012.
- 14 It is clear from Table 1 that the number of tenancies terminated is greater than the number of tenancies granted. In large part this is due to the current policy where the Council is creating larger more economically sustainable holdings.
- 15 By its very nature farming and farm estate management is a long-term business. Although there are very low levels of turnover in the estate as shown in Table 1, in large part due to the longer-term nature of tenancies, farming and farm estate management, there are still successes with tenants moving within the estate, those establishing good businesses and some even moving onto larger farms in the private sector.

Table 1 Terminations and grants 2012 to 2023

Year	Number Of Tenancies Terminated	Number Of Tenancies Granted
2012 – 2013	2	0
2013 – 2014	0	0
2014 – 2015	5	0
2015 – 2016	4	1
2016 – 2017	8	4
2017 – 2018	4	3
2018 – 2019	9	3
2019 – 2020	0	0
2020 – 2021	3	0
2021 – 2022	0	1
2022 – 2023	1	1
<b>Total</b>	<b>36</b>	<b>13</b>

- 16 But as farm holdings increase in size, due to economic pressures and to deliver viability, the tension between viability and affordability and the associated risks increases. For some authorities, that has meant looking at bare land tenancies as an alternative. For others extending uses to cover rural business start-ups, equine and other recreational opportunities as the primary purpose. So how the assets can be used, what does constitute a valued opportunity that serves the Councils objectives clearly remains central to the desirable outcomes of any review.
- 17 The approved strategy to develop the service set in 2012 has been to maintain service provision and size but restructure the estate, reducing the number of farms as opportunities arise, so each individual holding is more capable of being farmed economically and respond to the environmental agenda, whilst increasing the number of larger units compared to small, mirroring farming in the wider market. This approach has, as predicted, released farmsteads for sale in the open market, generating capital receipts of over £16 million and the funding required to modernise the farms and some inward investment. Progress on this work is dependent on historic tenancies being surrendered to the Council at the natural end of those leases. Fundamentally those blocks have not changed and remain a frustration in evolving the service, but acknowledging those restrictions is key to developing realistic ambitions and considering other options.
- 18 As the Council has in the past acquired this land for this specific purpose, it acquired land of a reasonable quality with little non-productive woodland etc. Average land in Cheshire can be acquired for c£8,000 to c£10,000 per acre. To give a magnitude (but not a valuation) the Estate,

if vacant could be worth between £38m and £48m. The rate of return for the capital value is low in comparison to other investments, due to the costs of management as the number per unit area is comparatively high, security of tenure and the long-term nature associated with holding agricultural land and some Councils have chosen to dispose of their estates and reinvest their capital and resources into other core areas. But agricultural property has always provided the opportunity to contribute towards policy objectives, both practically and financially within the policy contexts of the day.

- 19 In recent years examples include adding financial value in disposals through planning gain, identifying land with potential strategic value and that can contribute to the Council's carbon neutrality agenda such as carbon sequestration through woodland creation and renewable energy including solar PV.
- 20 Historically government policy has provided support within the industry based around land areas used for production. The most recent iteration of support programmes does include elements linked to productivity but with a much greater emphasis on environmental sustainability e.g. The introduction of significant funding available for the creation of new woodland including 'Trees for Climate,' ELMS (Environmental Land Management Scheme) and the sustainable farming incentive etc. The evolving demands for land use that are arising from Biodiversity Net Gain, Nutrient Neutrality and the Local Nature Recovery Strategies and the concept of Natural Capital will all influence land use patterns and impact directly on how the Council may wish to use land assets. As an example, this brings into scope woodland creation on land that would traditionally be considered most useful for crop and food production impacting on revenue budgets and land use options and of course the provision of the core purpose of the service.
- 21 The impact of world events in the energy sector has added to environmental objectives of the authority in seeking renewable projects options to meet carbon targets, again adding to the demand for agricultural land and in addition to the woodland creation programme, there are renewable projects being explored that are already impacting on the management delaying and deferring normal lettings, resulting in farmsteads being held vacant pending the outcome of feasibility works.
- 22 The use of land for woodland and or renewables reduces the land available for farming in its narrower definition and clearly impacts on the financial performance of the service. Thus far the impact has been absorbed within budgets masking the costs and benefits. The adoption of an implementation plan and associated costs for the Councils Tree Risk management will also need to be considered in reviewing budget outcomes.

- 23 As the Council has been implementing its carbon action plan, 47.36 hectares of farmland on two farms have been identified as suitable for woodland creation in the forthcoming season with an additional 88.60 hectares on three farms acres undergoing feasibility studies for delivery pre-2025. The fiscal impact on the gross income from these schemes is approx. £40,000. A further 55 Hectare farm is currently being managed on short term arrangements whilst the potential for a solar pv schemes is considered. While the solar farm will generate an overall income benefit to the Council, the gross impact on service revenue is currently £8,000 with the maximum impact at £24,500pa. The impact on the service revenue budget varies from site to site but that impact extends into disposals receipts programmes and service planning / delivery during the feasibility stages. Its therefore important that whilst recognising the opportunities that the land assets provide, that the review acknowledge and make provision for the service and budgetary effects of implementing corporate polices.
- 24 The service is predicated on creating opportunities for new entrants into farming. This is the elemental reason for holding the estate and is recognised by its tenants and the community and is fundamentally different than the normal approach of a farm estate owner. Although these opportunities are created, it does mean at the end of a tenancy term tenants do need to be prepared to move on.
- 25 The management function has been delivered through a shared service, now referred to as a strategic partnership and will be important to consider the resources that are both available and required to deliver the identified policy objectives in the context of the diverging policies of the client authorities.
- 26 A review will therefore provide an opportunity to explore how to address the use of land for the various purposes and provide transparency in delivery and budget management.

### **Briefing Information**

- 27 The Best Practice Guidance referred to above recommends that review should seeks a diversity of views and seek evidence both in house and independently; involve stakeholders and encourage ownership of the resulting policy across all stakeholder groups. The key stages are as follows:
- (a) Baseline Data & Intelligence Gathering – “The Past”
  - (b) Stakeholder Engagement – “What do others think of the ‘The Past’ and what would they like to see in the future?”
  - (c) Alternative Use Potential – “What else could it be used for?”



- (d) Options Appraisal – “What could it look like?”
- (e) Stakeholder Consultation (options and policies and buy in) – “What should it look like?”
- (f) Consolidation, Asset Management Plan Preparation and Adoption – “The Future”
- (g) Monitor and Review – “Celebrate the benefits of active Asset Management”

#### Member Advisory Group

- 28 The intention is to set up a Member Advisory Group, to receive evidence, and consider the options and advise on the setting of any recommendations with the objective that a revised policy be adopted in 2024/2025.
- 29 Further to confirmation at committee, membership proposals will be invited, and terms of reference for the advisory group agreed accordingly.
- 30 The Members Advisory Panel would be formed of five Members drawn from the Economy and Growth Committee. This will be subject to nominations received and appointments approved by the Head of Governance and Democratic Services in line with the relevant protocols in the Constitution, with further terms of reference to be agreed.
- 31 Terms of reference will look to identify the engagement of members in providing guidance and advice around the farming sector, the role of tenant farms across Cheshire currently, and to participate in discussions and/or workshops around the future approach and policy for the Farm Estate. Members of the group will receive updates from officers as to the options being considered and be engaged with in the assessment of pros and cons of each option or approach that will form a policy. Members views will then be considered by officers in making a recommendation to Committee about the proposed policy.

#### Indicative Potential Options

- 32 Based on the actions of other Councils and the activity that the Council is currently undertaking there are several approaches the Council could take as the basis for its policy. Although not an exhaustive list some options could be:
  - (a) Continue as is. Carry on the work of reorganising the estate, which ultimately will result in the Council offering modern business tenancies typically on a 15-year term to enable new entrants into farming

- (b) Change the nature of how the estate is operated: for example: Widen the types of business that are eligible to access the estate, specifically enable the Council to use its land for other policy related purposes (for example carbon offsetting) or offer bare land tenancies to new entrants. It is possible that the Council may wish to consider its land holdings in the context of development of a future local plan as this would be a logical step for any landowner.
- (c) Release the estate allowing the capital invested in the estate to be used for other purposes.

## **Reasons for Recommendations**

- 33 The current policy was set in 2012 and reviewed in 2018. There have been many changes in the farming sector, rural environment, and wider economy. Therefore, a review is appropriate to ensure best practice and policy is relevant to current rural and economic pressures.

## **Other Options Considered**

- 34 Do Nothing – continue with existing policy without review. This would mean the Council would not be able to assess whether the current policy is ‘fit for purpose’ for current challenges in the farming and rural sectors, and therefore not reflective of wider pressures in local authorities and the economic climate in rural farming.

## **Implications**

### *Monitoring Officer/Legal*

- 35 Under the constitution, the Economy and Growth Committee are responsible for the development and delivery of the Council’s estates, land and physical asset policies and determination of policies and making decisions in predation to the rural and cultural economy. Therefore, it is appropriate that the Committee considers the content of this report and in due course take a decision regards adoption of a policy relating to farms.
- 36 The Smallholdings and Allotments Act 1908, allowed a county council to provide smallholdings for people that wanted to buy, lease and cultivate the holdings, any future use of the land should take into account the ethos of the act. The provision of an agricultural estate is non-statutory and are a discretionary service.
- 37 The recommendation includes the setting up of an advisory group, any appointments made to the group should be proportionate to the political composition of the Council. The Council is under a duty to give effect to the principles set out in the Local Government and Housing Act 1989 as far as reasonably possible.

- 38 When making a decision the Council should follow the Wednesbury principles, any failure to do so could result in the decision being called into question and ultimately judicially reviewed.

*Section 151 Officer/Finance*

- 39 There are no specific financial implications to this report other than commencing the review process and the employment of officers and others on this exercise. These will be funded through the Place Directorate. It is however very clear that there could be significant implications to the Council depending on what approach was taken as the result of this work. This will be considered in detail in the further report detailing the outcome of the review. Any proposed budget changes would be taken through the Council's MTFS process.

*Policy*

- 40 Developing new policy in this way also allows the Council to be seen as an open and enabling organisation as it ensures transparency in its decision making. It generates opportunities for the Council to listen to our residents. It can create opportunities to support a sustainable financial future for the Council.
- 41 Under the constitution the Committee has responsibility for making policies relating to the Farms Estate and also responsibilities for making decisions relating to the rural community. It is reasonable that the Council reviews its policies from time to time. The current approach to the Farms Estate was implemented in 2012, and reviewed in 2018, therefore it is appropriate that the Committee considers the existing approach and considers the approach it wishes to adopt into the future. Therefore, there are no policy implications directly associated with this report. It is entirely possible that some decisions that relate to the farms estate may have cross cutting policy themes or financial implications. These may need to be considered in more detail as the policy is developed.
- 42 Considering the farm estate policy follows work completed and considered in the previous fiscal year regarding the Council's Corporate Asset Management Plan. This document sets out how the Council's various policies, processes and procedures function in relation to each other and the Council's Corporate plan. Policy on the farms estate is developed in this context.

*Equality, Diversity and Inclusion*

- 43 None. At this stage there is no equality diversity or inclusion implications, however it is possible that change in the farms estate may have these implications, which would need to be considered in due course.

*Human Resources*

- 44 None. It is possible in the future that there may be HR implications depending on what approach to its estate the Council chooses to take.

*Risk Management*

- 45 Not undertaking a review would have risk management implications for the Council. It could find itself out of step with the market or that the estate is not aligned to the needs of the Borough's residents in the future.

*Rural Communities*

- 46 The farms estate is part of the fabric of rural life in the Borough. The Council's approach to its farms was set in 2012 and it is entirely possible that this offer is misaligned to the needs of rural communities. Taking the step to refresh its policy creates an opportunity to understand the requirements of rural communities and indeed more widely the needs of residents in the Borough.

*Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)*

- 47 None.

*Public Health*

- 48 None. However, it is possible that there may be public health implications for the Council as an outcome of this process.

*Climate Change*

- 49 The Council plans to be carbon neutral by 2025 and use of land in its control to help achieve this is a significant part of the overall approach the Council has adopted to achieve this. The environment is very much part of the day-to-day operation of the estate and considering the Government's approach to farming is also an important factor in understanding the implications of climate change for the council as an owner of agricultural land.

Access to Information	
Contact Officer:	Andy Kehoe Andy.Kehoe@cheshireeast.gov.uk Head of Estates
Appendices:	None
Background Papers:	

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## **Economy and Growth Committee**

**12 September 2023**

### **Handforth Garden Village Progress Update**

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**Report of: Peter Skates, Acting Executive Director Place**

**Report Reference No: EG/15/23-24**

**Ward(s) Affected: Handforth**

#### **Purpose of Report**

1. This report provides an update for Committee on the progress made on the Handforth Garden Village (HGV) scheme since the matter was last discussed with Committee in February 2023. The report outlines the priority actions to be taken by officers in the coming months.
2. It also seeks nominations for the proposed Handforth Garden Village Members Advisory Group, and a specific delegation of authority to the Director of Growth and Enterprise to facilitate the issue of planning permission.
3. This project contributes towards the Council's Corporate Plan 2021-2025 to be a Green Council and to lead our communities to protect and enhance our environment, tackle the climate emergency, and drive sustainable development.

#### **Executive Summary**

4. The HGV project continues to be progressed and viability work is ongoing. When completed this work will inform a gateway decision to proceed with delivery on site. It is anticipated a report will be brought to this Committee to make that gateway decision later this year.
5. Due to milestones associated with the Housing Infrastructure Funding grant, there is a need to inform members of several pressing matters which require action to be taken and spend to be incurred ahead of that gateway decision.

6. This report outlines decisions required to facilitate the grant of planning permission and to move into delivery aligned to the HIF milestones. It also sets out for transparency the scope of additional work and associated expenditure which is required ahead of the gateway decision being made.

## RECOMMENDATIONS

The Economy and Growth Committee is recommended to:

1. To nominate up to five members from the Committee to sit on the Handforth Garden Village Member Advisory Group and subject to nominations received and appointments approved by the Head of Governance and Democratic Services in line with the relevant protocols in the Constitution.
2. Delegate authority to the Director of Growth & Enterprise (current Acting Executive Director – Place), to finalise, sign and submit Memoranda of Understanding to the Local Planning Authority, committing the Council as landowner/developer to meet obligations of the s.106 Agreement associated with planning permission 19/0623M.
3. Recommend to the Finance Sub-Committee that the existing Handforth Garden Village budget in the Council's Capital Programme is separated into two project budgets, with the new project being titled Handforth Garden Village S.106 Development Obligations and having a budget currently estimated as circa £7m to cover the first tranche of S.106 contributions associated with the initial infrastructure works.
4. Note the intention of officers to utilise funds allocated for the Garden Village in the MTFS to instruct further priority workstreams in advance of grant of planning permission and approval of the final Business Case.
5. Note the intention to bring a further report to Committee once ongoing viability and business case work is completed, to seek authority for the next stage of the project.

## Background

### General Update on Progress Since February 2023

7. A report was last presented to Economy and Growth Committee outlining progress on this project in February 2023. Since that time, a number of activities have been progressed.



8. HGV is a substantial project, the delivery of which is a key part of the Local Plan Strategy. The Council is the majority landowner for the site and has an approved budget of £64.7m in the Council's Medium Term Financial Strategy (MTFS). This amount includes £21.7m from the Housing Investment Funding (HIF) from Homes England. To date approximately £670,000 of HIF funding has been claimed.
9. In 2021 the Council received valuation advice by Savills on HGV. Based on these inputs, once serviced land parcels had been brought forward the Council's net receipt could be in the region of £60m. A key assumption in Savills' work was that the Council would recover all its costs to bring forward these parcels through HIF and developer contributions. Costs and values have changed markedly since 2021 so these valuations are now dated. The original advice did not factor in the Council developing any of the sites and therefore does not include developer profit. Therefore, Savills has been instructed to prepare an updated valuation and appraisal to consider project viability. Indications are that the Garden Village will ultimately be financially viable and cash positive for the Council. A full report on this work will be brought to this Committee after its conclusion, later in the year.
10. To complement and inform the viability work, a separate team (Balfour Beatty) has been appointed to undertake optimisation work examining current proposals for the initial preparation and infrastructure works (IPIW) and identifying opportunities to value engineer/ improve the infrastructure scheme, to maximise deliverability while still meeting anticipated planning requirements.
11. The Local Planning Authority (LPA) has been working to prepare draft conditions to be attached to the planning permission and draft a s.106 agreement<sup>1</sup> which outlines additional obligations considered to be necessary to make the development acceptable in planning terms.
12. The Economic Development Service (EDS) acting as the Council's delivery team and the LPA have been working to identify an alternative mechanism to enable the obligations set out in the s.106 agreement to be secured. This mechanism will overcome the issue that the Council as landowner cannot enter into a legal agreement with the Council as LPA. It is explored in more detail later in the report.
13. Committee will recall that the Garden Village has an offer of £21.7m HIF funding from Homes England towards primary infrastructure costs. Due to historic planning delays caused by external statutory consultees and the pandemic, the Council was unable to meet certain key milestones for

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<sup>1</sup> Strategic Planning Board resolved to grant planning permission for the development subject to securing obligations set out in a legal agreement under Section 106 of the Town and Country Planning Act 1990

this funding. A remediation plan was submitted to Homes England in February 2023 seeking an extension of the programme. Homes England has corresponded to confirm that it has been accepted and a draft Deed of Variation (DOV) to the new plan was received this month and is currently being reviewed by the Council's legal service. The current revised delivery programme is in **Appendix 1**. The revised deadline for spending the HIF funding is expected to be March 2025.

14. The formal granting of planning permission is the next milestone in the remediation plan and is targeted for the end of September 2023. The challenge of meeting this milestone should not be underestimated, particularly given limited staff resources, but officers in both the EDS and the LPA are working hard to try and meet it. If this or any future milestones are not achieved, the Council will again be in breach of the HIF agreement which would require further renegotiation with Homes England. Delays will also impact on the Council's ability to spend £21.7m by March 2025.
15. While good progress is being made on this project, key risks related to capacity and resources remain.

#### **Handforth Garden Village Member Advisory Group**

16. Following agreement to establish an informal Members Advisory Group for the HGV at the February 2023 Committee. The Committee are asked to nominate up to five members from the Economy and Growth Committee to sit on this group. The nominations and appointment to the group will be approved by the Head of Governance and Democratic Services in line with the relevant protocols in the Constitution, with further terms of reference to be agreed by that group at its first meeting. The purpose of the group will be to advise officers on activity associated with the development of the HGV, which will have implications and impacts on the Council's reputation and/or on the broader local communities. This work programme is likely to support the development of work such as the Community Management and Maintenance Plan (CMMP) and to provide views on the exemplar elements of the development, including the smart village concept.

#### **Planning Mechanism and Memorandum of Understanding**

17. In January of this year Strategic Planning Board (SPB) resolved to grant planning permission subject to planning conditions, and the completion of a legal agreement securing obligations under section 111 of the Local Government Act 1972 and section 106 of the Town and Country Planning Act 1990 (s.106 Agreement).

18. A s.106 Agreement binds the landowners and developers to deliver mitigation both within and outside of the application site which is necessary to make the development acceptable in planning terms. As part of their decision in January, SPB identified a list of mitigation that is required in connection with the Garden Village Scheme.
19. Ordinarily all parties with a material interest in an application site will enter into the s.106 Agreement prior to the grant of planning permission. In this case, as large parts of the site are in the ownership of the Council, the LPA takes the position that public law and contract law principles prevent Cheshire East BC from entering into a legal agreement with itself. In any event the Council cannot take enforcement action under s.106 against itself as that requires a separate legal personality. Separately, other landowners of parts of the site are not in a position to sign up to the s.106 agreement covering the Council land.
20. In these circumstances, an alternative legal mechanism to secure the mitigation necessary to make the development acceptable in planning terms has been identified that has been utilised by Cornwall Council in a similar case.
21. If both this Committee and Strategic Planning Board agree to the use of this mechanism, this will be progressed by officers to enable planning permission to be granted.
22. In these novel circumstances it is proposed that the s.106 obligation (or mitigation and requirements that would otherwise be secured by the s.106 obligation) are secured by proposed mechanism involves negatively worded planning conditions attached to the planning permission requiring:
  - That to the extent the Council as landowner/developer implements the permission, the commencement of development is prohibited until the Council as landowner submits to, and has approved by, the LPA a Memorandum of Understanding (MoU), confirming how and when relevant obligations in the agreed form of s.106 Agreement will be met for the development that is proposed to be carried out.
  - That to the extent the Council divests its land interests to a third-party developer for that developer to implement the permission, development is prohibited unless the Council ensures that such third-party developer enters into the agreed form of s.106 Agreement with the Local Planning Authority before it is permitted to implement the permission.
  - That to the extent the permission covers third party land, the commencement of development is prohibited until the relevant third-

party landowner has entered into the agreed form of s.106 Agreement prior to commencement on that land.

- 25 The Planning Practice Guidance (PPG) advises that negatively worded conditions requiring a s.106 agreement to be entered into prior to certain development taking place are unlikely to be appropriate in the majority of cases, but that they may be required in exceptional circumstances. Particularly complex development schemes and schemes where delivery could otherwise be at risk are identified as examples of exceptional circumstances. It is considered that given the size of this scheme and the importance of its delivery in terms of housing supply and infrastructure to bring forward the development of the site for the Borough and the potential of delay to the scheme that may put the delivery of the scheme and therefore the benefits at risk, that this development would satisfy the exceptional circumstances criteria in the PPG. The negatively worded conditions would still need to meet the standard condition tests that are set out in the National Planning Policy Framework and the PPG.
- 26 This proposal is not without risk. Utilising a more bespoke solution is open to legal challenge. The LPA would not be able to seek an injunction for breach of the MoU given by the Council. This therefore puts the Council in a position that would not be available to other landowners and increases the risk of challenge. The device would effectively rely on the reputational damage to the Council, if any of the undertakings made in the MoU were not met. However, enforcement through breach of condition would be an option.
- 27 Given the circumstances, officers are of the view that the Cornwall mechanism described utilising negatively worded planning conditions and Memoranda of Understanding, is an acceptable way forward. It is proposed that responsibility for drafting any MoUs on behalf of the Council, as landowner, agreeing them with the LPA, and signing them, is delegated by this Committee to the Director of Growth & Enterprise.
- 28 The current skeleton draft of the first MoU, which would be required prior to the commencement of the IPIW is set out at **Appendix 2**. Further MoU may be required as the development progresses and further s.106 obligations are triggered. The delegation to the Director of Growth & Enterprise is intended to cover the MoU relating to the IPIW and any further MoUs that might be required if the Council determines to undertake further phases of development itself.

### **Separating the HGV budget in the Capital Programme**

- 29 The Council's approved MTFS includes a £64.7M budget for HGV. To satisfy the LPA that funding has been set aside to meet the financial obligations arising from the s.106 triggered by the commencement of the

IPIW, the initial MoU will undertake to split the existing budget into two project budgets, and transfer to the new account, sufficient funds to meet the s.106 obligations triggered by the IPIW. The funds in this account will be held to the order of the LPA so that the future stewardship vehicle may access them and pay them out as and when required to defray on s.106 obligations as they fall to be paid.

**Additional priority workstreams requiring funding at this time**

- 30 As reported in the general update section of this report, several workstreams are ongoing to clarify viability and the business plan for the development, and it is intended, that as soon as this has concluded, assuming planning permission is granted, a full report will be presented to committee seeking authority to commence the development of the Garden Village.
- 31 Milestones set by Homes England associated with the HIF are extremely challenging. This extends beyond the milestone for the grant of planning permission, to milestones for entering into a contract with the main contractor for infrastructure works, for the start on site and for spending all the HIF grant. To maximise opportunities to secure and spend the HIF it is important that additional preparatory workstreams are progressed ahead of the grant of planning permission and ahead of any commitment being given to commence with the delivery of the Garden Village.
- 32 The following section sets out the key areas of work which need to be undertaken as a priority requiring additional expenditure and explains why they cannot be delayed. These are brought to the attention of Committee given that these workstreams will require expenditure partly at risk and in advance of the approval of the final business case. The Committee are asked to note that the total costs of these work streams have been capped at £1.1m and sit within the agreed MTFS capital programme for the project.

Table 1 Summary of advanced work packages and costs.

Advanced work packages	Capped costs (£'000s)
<i>Detailed design and pre-commencement work on Dairy House Farm</i>	300
<i>Management and Maintenance arrangements for Community Infrastructure</i>	200
<i>Detailed design work for Utilities</i>	200
<i>Preparatory work to enable contracting of IPIW</i>	100
<i>Materials Management Strategy and further work associated with fill</i>	150
Additional work to progress planning conditions, s.106 and implementation preparation	150
<b>Total</b>	<b>1,100</b>

### ***Detailed design and pre-commencement work on Dairy House Farm***

- 33 Dairy House Farm is a vacant Grade II listed building farmhouse with outbuildings in the ownership of the Council. The buildings have deteriorated over several decades and are now in a derelict and dangerous condition. It is a planning requirement that Dairy House Farm is restored to a structurally sound condition as part of the HGV project.
- 34 A full scope of restoration work has been prepared and Listed Building Consent (LBC) has been granted. The cost of undertaking the work is currently estimated at around £5.5m and this full amount is expected to qualify as eligible expenditure for the HIF grant. The deadline for spending the HIF grant is March 2025. The value of the property on its own once the works are complete is expected to be substantially less than the cost of repairs. However, the works on the Farm unlocks the development potential of the full site for the HGV. Therefore, the shortfall is justified in commercial terms by the fact that the restoration is required to proceed further with development at HGV.
- 35 The next stage in this restoration project is the detailed design, preparation of working drawings and discharging of LBC conditions. The cost of undertaking this work will be approximately £300,000 and it is proposed that this work is initiated straight away for the following reasons. A proposed condition of the HGV planning permission will prohibit works within 100m of Dairy House Farm until the listed buildings are stabilised. This will severely restrict the earthworks that can be carried out as part of the IPIW. Proceeding with the detailed design straight away removes a potential obstacle to carrying out the IPIW and contributes to spending the available HIF grant.

## ***Management and Maintenance arrangements for Community Infrastructure***

- 36 A key element in the success of HGV is its long-term stewardship – the process by which the village will be managed and maintained, in perpetuity. Details of stewardship will be set out and approved by the LPA in the form of a CMMP. The CMMP will be complex comprising a multiplicity of elements that will include:
- the structure, membership, governance, and funding of a stewardship vehicle
  - defining the extent of the common property it will manage and maintain (at a minimum, the strategic green infrastructure, open space, play areas, community orchards, allotments, and village hall and, potentially, community infrastructure such as car parks, a district heating network, and ‘smart’ technologies for security and shared assets)
  - a legal basis on which the stewardship vehicle will hold the common property of the village taking account of contamination management and oversight, long-term risks and liabilities, and the future role of the Council, as a landowner
  - sound financial model based on a robust estimate of future management and maintenance costs, identifying, and evaluating expected and potential income streams.
- 37 The process of preparing the CMMP will, similarly, be complex, and protracted, because of its scope and the need to obtain and synthesise inputs from a wide range of specialisms, the importance of capturing best practice, and the imperative of securing full stakeholder engagement. An outline CMMP was prepared for the current planning application and there has been engagement with Homes England and others involved in managing garden village communities across the country to share experience and obtain guidance. The CMMP is one of the work areas that Officers would appreciate input and guidance from the members advisory group.
- 38 The stewardship vehicle is not expected to be operational until the development of the village is in progress and, once formed, its operations will not be self-funded (by service charges levied on dwellings) until a large part of the village is completed. There is, therefore, a need for an interim plan for the management and maintenance of the local wildlife site, country park, and other areas of green infrastructure, and there is a planning requirement that this plan is submitted to and approved by the LPA before the IPIW commences.

- 39 To ensure that suitable arrangements are in place and have been approved by the LPA so as not to delay the programme, it is proposed that work is started on short and long-term maintenance and management arrangements. This is a significant piece of work involving specialists in conveyancing and property, open space and parkland management, compliance and public safety, finance, procurement, insurance, and governance and the cost of taking forward these workstreams is estimated to be around £200,000.

### ***Detailed design work for Utilities***

- 40 There are two main utilities workstreams in the delivery programme for HGV: the diversion of existing services and the provision of new services.
- 41 Diversions are being investigated by Balfour Beatty/Ramboll as part of the PSSC process. Their work has identified a number of potentially high-cost diversions (notably fibre optic cables) that will have to be carried out early in the programme so that the IPIW can proceed on schedule. The next stage is for the utility companies to prepare a detailed design and cost for the diversions. Because this work is carried out by utility companies and may require prior site investigation work it can take a long time to mobilise
- 42 HGV will require new services (water, electricity, and communications). There are a number of options available for each new point of connection and a strategy is required based on a robust evaluation of capital and revenue costs, procurement options and constraints, and programme implications. There can be a long lead-in for evaluating options and securing new points of connection so this workstream poses a programme risk.
- 43 It is proposed that these two utility workstreams be progressed in advance of the gateway decision, at a maximum cost of £200,000, in order to manage the risk they pose to the delivery programme and to pursue opportunities to defray part of the HIF grant in advance of the spending deadline.

### ***Preparatory work to enable acceleration of the IPIW***

- 44 A key element in the delivery of the project is procuring a contractor and design consultant to take forward the proposals. In consultation with Procurement and CE Legal, Balfour Beatty (BB) has been appointed under the SCAPE framework to undertake a Feasibility Study and a Professional Short Services Contract (PSSC). The Feasibility Study was completed in 2022. The PSSC is in progress, identifying opportunities to accelerate expenditure to meet the HIF spending deadline and to value engineer key elements of the primary infrastructure.



- 45 The next stage in the project includes a detailed site investigation, detailed designs for all elements of the scheme, negotiations with regulators, securing consents and permits, and discharging pre-commencement planning conditions. BB is not contracted to undertake this work. It will require a new contract. This will have to deal with a range of issues including defining fully the scope of the works and the professional services required to support them, the programme requirements for the work, and the relevant governance arrangements. A budget allowance of £100,000 is proposed to undertake the preparatory technical and legal work required to agree an appropriate form of contract.
- 46 It is proposed that the preparatory work for this contract be initiated in advance of the decision to proceed to commence the Garden Village so that the contract can be completed in short order if the Council's gateway decision is to proceed.

***Materials Management Strategy and further work associated with fill***

- 47 Significant earthworks are required to create suitable development platforms across the site. These works are not straight forward as the site is underlain in some areas with fill from former highway works and the earth works will be regulated under licence by Environment Agency (EA).
- 48 The EA will require further ground investigation work in advance of any construction works. Discharging planning conditions and the environmental permitting may be arduous, as further engagement, interpretative studies and other desktop work will be required over the next few months to agree permit requirements and an approach to discharging planning conditions.
- 49 The EA regime regulating the reuse of filled materials is evolving and this may preclude or require amendments to the current design. It is unknown at this stage what impact this will have on the delivery programme. This information will emerge through the design optimisation work over the next few months. It is possible that a further planning application may be required so it is particularly important to accelerate this workstream as mobilisation for site investigations and engagement with the statutory agencies will be protracted. These works are critical as the materials management strategy could potentially impact on the wider detailed design for example of servicing and drainage.
- 50 A strategy for waste materials reuse will be required. The work on this ahead of the gateway decision is unlikely to be abortive unless the development scheme did not proceed. A budget estimate for activity

associated with this workstream in advance of the gateway decision is a maximum of £150,000.

### **Additional work to progress planning conditions, s.106 and implementation preparation**

- 51 In addition to the above key specific workstreams, there is a pressing need to continue progressing various additional workstreams associated with such matters as responding to anticipated pre-commencement conditions attached to the planning permission, seeking legal input to support with the finalisation of the s.106 and undertaking legal due diligence on various aspects of the project.
- 52 It is not possible to provide a detailed breakdown as workstreams need to respond to evolving circumstances. A capped budget of up to £150,000 may be required for items not specifically detailed in the paragraphs above but which could emerge as critical to the progression of the scheme.

### **Consultation and Engagement**

- 53 There has been extensive consultation via the planning process in relation to the allocation of the Garden Village in the Local Plan, with regard to the Supplementary Planning Document (SPD) and the planning application. There has also been a significant number of discussions, meetings and engagement with local stakeholders and organisations including Handforth Parish Council and ward members.

### **Reasons for Recommendations**

- 54 The reasons for the recommendations are set out in more detail in the body of the report but are summarised here:

Member Advisory Group – it was agreed during the previous discussions about Garden Village that member engagement and understanding is fundamentally important to the character, standards and successful implementation of the Garden Village

Planning Mechanism, Memorandum of Understanding– delegating authority to the Director of Economy and Growth to enter into Memoranda of Understanding is a pragmatic solution to enable the grant of planning permission. It is not without risk of challenge as explained, but is considered the most pragmatic way forward in view of time constraints relating to HIF.

Separating the HGV budget in the Capital Programme – This is proposed to provide further comfort to the LPA regarding the Council's commitment

to ensuring the obligations of the s.106 Agreement, triggered by the commencement of development, will be met.

Noting additional priority workstreams now requiring funding - The need for individual workstreams to be progressed ahead of the grant of planning permission has been explained in turn for a number of specific workstreams. In essence, unless work continues at pace, it is almost certain that milestones for HIF will not be met and this funding may be lost. It must be noted that even with the progression of these workstreams given the extremely challenging nature of the milestones there are risks they will still not be met.

### Other Options Considered

- 55 The following options to the recommended decisions have been considered:

Option	Impact	Risk
Do nothing	Progress of the Garden Village would be compromised.	Failure to secure HIF Failure to deliver homes Undermining delivery of key site within Local Plan Lack of transparency on a Council priority project
Do not agree Terms of Reference of Member Advisory Group	Lack of overview from elected members	Reduced ability to check scheme against strategic priorities
Do not approve the preparation and submission of Memoranda of Understanding to the Local Planning Authority, setting out how the Council as landowner, will ensure that all relevant obligations of the s.106 will be discharged.	Lack of demonstrable commitment from the Council as landowner to ensure delivery of relevant s.106 obligations	LPA determines not to issue Decision Notice as concerned about level of risk  HIF milestone not met and HIF allocation could be lost
Do not approve the s151 officer dividing the existing North Cheshire Garden Village capital programme budget item into two separate fully	Lack of demonstrable commitment from the Council as landowner to ensure delivery of	LPA determines not to issue Decision Notice as concerned about level of risk

funded budgets named Handforth Garden Village: s.106 Contributions and Handforth Garden Village and the transfer of £6m from the main budget into the new s.106 Contributions budget.	relevant s.106 obligations	HIF milestone not met and HIF allocation could be lost
Object to the progression of key additional workstreams in advance of the acceptance of the final business case and delivery strategy.	Delay in delivery of key workstreams	Failure to meet milestones for HIF. Failure to deliver homes Undermining delivery of key site within Local Plan

## Implications and Comments

### *Monitoring Officer/Legal*

- 57 The Cornwall Mechanism is unusual and is at risk of successful challenge by a third party. The Memorandum of Understanding would be contractually unenforceable against the Council (acting as developer) by the LPA. The device would effectively therefore rely on reputational damage to Cheshire East Council if any of the undertakings made in the Memorandum of Understanding were not met.
- 58 Whilst the approach is unusual and that there are risks to the LPA in accepting the Cornwall Mechanism, there is also a reasonable argument that the LPA can lawfully rely on the proposed mechanism as sufficient to secure the infrastructure necessary to make the Handforth Garden Village Scheme acceptable in planning terms.
- 59 Once the (Planning) Decision Notice has been issued, ordinarily 3<sup>rd</sup> parties have a 6-week window in order to seek permission from the Court to judicially review the decision of the LPA. Should permission be granted, the application will proceed to the substantive stage and a full hearing. Should the claim succeed, the decision may be quashed. The consequences of this are that the planning application would need to be reconsidered and there would be no extant planning permission for the scheme. Defending any potential judicial review would incur significant expense for the Council. Should the judicial review succeed, there may be adverse costs awarded against the Council in addition to the costs in defending the application.

- 60 It is important for Members of this Committee to note the approach taken in the Memorandum of Understanding and in particular, to note the extent of and timing of all the obligations which are required to be delivered.
- 61 The Council has identified and explored in detail, the alternative options to the Cornwall Mechanism as outlined in this Report. However, for a variety of reasons, these alternative options are not considered to be feasible.
- 62 Members are reminded of the remit of the Economy and Growth Committee, including making decisions on matters relating to delivery inclusive and sustainable economic growth. Members of this Committee are not tasked with assessing the planning merits of the Handforth Garden Village application – this is a matter for the LPA’s Strategic Planning Board (‘SPB’). A separate update report will be provided to SPB.
- 63 As noted above at para 14 there is an offer of [up to]<sup>22</sup> £21.7m HIF funding from Homes England towards primary infrastructure costs. It is understood that to date funding of approximately £6m has been made available from Homes England to cover pre-construction activities necessary for the development of the desired infrastructure. The para goes on to note that the Council has agreed a remediation plan to adjust the milestone commitments made to Homes England upon which future funding from Homes England will depend. The plan having been accepted by Homes England, there is the need for a “Deed of Variation” to solidify this. A draft of the Deed of Variation has now been received from Homes England. The detail of this document needs to be carefully considered and discussed with the project team; but from a first look it would appear to accord with the agreement reached in terms of the remediation plan. Under the proposed deed, the availability period is adjusted so as to expire on 31 March 2025 as opposed to 31 March 2024 as envisaged by the original funding agreement. Funding from Homes England under the terms of the current agreement as varied is only made available for the duration of that period.

#### *Section 151 Officer/Finance*

- 64 The Council's approved Capital Programme within the existing Medium Term Financial Strategy includes a budget for the Garden Village at Handforth. This report proposes that the budget is split into two projects, with a newly titled project to recognise the Council’s financial obligations under the associated s.106 development agreement. This separate project budget would be for £7m, and would give the Local Planning Authority (LPA) appropriate reassurance that the pre-commencement

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<sup>22</sup> To be confirmed

financial obligations of the s.106 agreement will be met by the Council as landowner. It would also give the LPA confidence with regard to its considerations in respect of issuing the Decision Notice for the Garden Village to meet the milestone required for the Homes England Housing Infrastructure Funding.

- 65 Members should note that the S106 obligations include, as well as one-off capital contributions to the development, annual ecology management activity. Subject to the agreement of the final business strategy, the Council may be required to deliver those activities, which are currently estimated to cost £164,000 per annum; this may need to be provided for in future years annual budgets, by way of providing revenue-financing, including an allowance for indexation in accordance with the S106 obligations, and approved in the Council's Medium Term Financial Strategy.
- 66 The report recommends that Finance Sub-Committee separate the existing Handforth Garden Village budget into two project budgets and approve the virement of £7m into the Handforth Garden Village s.106 Development Obligations project budget.
- 67 It is noted in the body of the report that there is a proposal to spend 'at risk' a further £1.1m, in addition to existing expenditure, ahead of any final assessment of whether the scheme is viable and achievable. Members are reminded that if a capital scheme does not progress to actual development, any preparatory costs incurred will be considered as 'abortive' and required to be written off to the Council's revenue account, in accordance with accounting regulations. In addition, the report mentions that there is a need for more clarity around how secure the £21m of HIF funding is and how that may be maximised and existing drawdowns secured; the risks relating to this matter are also noted in the report.

### *Policy*

- 68 The Garden Village is a key component of the Borough's Local Plan and will deliver on a wide range of Council priorities relating to housing, education, open space, sustainable transport, heritage etc.

### *Equality, Diversity and Inclusion*

- 69 An equality impact assessment is being prepared as part of the development of the business case and delivery strategy and will be included in the decision report relating to this.

### *Human Resources*

- 70 A step change increase in staffing resources and investment is required to effectively deliver and manage this project. A resource plan will be prepared as part of the business case and delivery strategy and will form part the suite of documents informing the gateway report.
- 71 The internal capacity allocated by the Council to the delivery of Garden Village totals approximately 1-1.5 full time equivalent (FTE). This is not sufficient or sustainable to effectively deliver and manage this scheme.
- 72 Whilst there are additionally some external advisors already contracted to provide specific activities or skillsets, when the project moves into the construction and disposal phases, significant capacity will be needed across a number of specialist disciplines including planning, legal, development surveying, master planning, civil engineering, energy, architecture, landscape architecture, open space management, community and stakeholder engagement, highways and transportation, project management, sports need, contaminated land etc. Subject to procurement compliance, this might be best accessed on a reach back or call-off arrangement, perhaps through an existing framework agreement.
- 73 The reduced capacity at senior level within the directorate has also had an impact on the opportunity for and pace of decision making.
- 74 It is self-evident that the limited capacity within other enabling Council departments and other statutory agencies also presents challenges.

### *Risk Management*

- 77 A full risk assessment will be included in the business case and delivery strategy decision report.
- 78 Operational issues and risks are monitored and managed through the Strategic Housing Sites Programme Board. There is an escalation pathway through to the Place Board.

### *Rural Communities*

- 79 None

### *Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)*

- 80 Play and sports facilities and informal open space will be designed into this new community and a new through school is facilitated by the development. The Council's leading role in this scheme means that this

will be well planned and high quality. Because this is a large-scale development, sufficient funds are generating to deliver these facilities and other positive outcomes at scale.

#### *Public Health*

- 81 The development will provide significant opportunities for outdoor activities including informal recreation, play and sports. As a brand-new settlement, the ability for people to sustainably and actively travel will be designed in. Through the s.106 obligations, financial contributions will flow from the development into health provision. There is also likely to be some conveniently located older peoples' housing in the early phases of development.

#### *Climate Change*

- 82 It is intended that the garden village will have sustainable development as a core principle locked in by design. Active travel such as walking and cycling, and the use of public transport will be encouraged. A wide range of local facilities will be provided to minimise dependence on the car. It is anticipated that there will be extensive green energy measures potentially including a district heating network although the programme to comply with the requirements of the external grant funding of the district heating scheme is challenging.

<b>Access to Information</b>	
Contact Officer:	Charles Jarvis, Head of Economic Development <a href="mailto:Charles.Jarvis@cheshireeast.gov.uk">Charles.Jarvis@cheshireeast.gov.uk</a>
Appendices:	Appendix 1: Programme Appendix 2: Memorandum of Understanding – Heads of Terms
Background Papers:	Report to Economy & Growth Committee (10 <sup>th</sup> February 2023): Update on Handforth Garden Village <a href="http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s101219/Report.pdf">http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s101219/Report.pdf</a>





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## **Appendix 2**

### **Memorandum of Understanding**

**Relating to the delivery of the Initial Preparation and  
Infrastructure Works (IPIW) for the Garden Village at  
Handforth (Phase 1)**

**THIS MEMORANDUM** is dated

2023

## **PARTIES**

- (1) **CHESHIRE EAST BOROUGH COUNCIL** of Westfields, Middlewich Road, Sandbach, CW11 1HZ (**'Owner'**)
- (2) **CHESHIRE EAST BOROUGH COUNCIL** of Westfields, Middlewich Road, Sandbach, Cheshire, CW11 1HZ (**'Council'**)

### **1. Background**

- 1.1 The Owner is the majority landowner of the Site.
- 1.2 The Council is the local planning authority for the purposes of the Town & Country Planning Act 1990 ('the Act').
- 1.3 By an application registered on 15<sup>th</sup> May 2019 and allocated planning reference number 19/0623M, the Owner, through its development company Engine of the North Limited ('EOTN') applied for planning permission to the Council, acting as Local Planning Authority, to develop land east of the A34 and south of the A555 at Handforth, Cheshire ('the Site').
- 1.4 EOTN has submitted a High Level Phasing Plan ('Schedule 2') to the Council identifying the number, location, extent and programming of construction Phases of the whole Site including details of the Green Infrastructure, mixed use village centre and employment uses as described in the Application.

### **2. Definitions**

- 2.1 The following terms used within this MoU are as defined in the S106:

"Access"	Means full and unrestricted construction access (subject to compliance with health and safety matters) with and including all officers, employees, contractors and agents, with or without plant, machinery and materials, subject only to the Council giving the Owner at least 5 working days' notice of the date of required access.
"Annual Ecological Commuted Sum"	The sum of £164, 051 (one hundred and sixty four thousand and fifty one pounds)
"Application"	The hybrid application for planning permission registered by the Council on the 15 May 2019 and allocated reference number 19/0623M
"BB103"	Means the document described as Building Bulletin 103 and entitled "Area Guidelines for Mainstream Schools" published by the Department for Education and the

Education Funding Agency and dated June 2014 including any document which from time to time replace (in whole or part) that document

“CMMP”

A detailed community management and maintenance plan relating to the Site, submitted to and approved by the Local Planning Authority setting out;

1. a strategy for the maintenance and management in perpetuity of the Common Areas
2. the proposals for the long term management and maintenance in perpetuity of each element of the Common Areas, identifying the maintenance requirements including all ongoing maintenance and management operations, specifically identifying the management objective, task and the timing and frequency of the operation for all the features of the area to include any hard and soft landscaping, surfacing materials, furniture, play equipment, refuse or other storage units, signs, lighting, boundary treatments, trees, shrubs and hedge plants to ensure that the area remains safe and as necessary available for public use
3. details of how the long term maintenance and management of the Common Areas will be secured and a business plan explaining how they will be financed (together with details of the mechanisms by which the Estate Management Charge is to be calculated) and carried out throughout the lifetime of the Development
4. how relevant parts of the Common Areas will be operated and managed by the Management Company

“Commencement of Development”

The date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out and “Commence Development” shall be construed accordingly.

“Common Areas”

The Strategic Green Infrastructure, Open Space, the Village/Community Hall, the village centre, unadopted roads (which shall be maintained as part of the Common Areas over which the public shall have rights of access in perpetuity) and all other areas of the Site transferred to the Management Company and identified in the CMMP;

“Development”

The Development of the Site by

Part 1 – Outline Planning Application

The demolition works (unspecified); around 1,500 new residential dwellings (Class C3); new employment uses (Classes E and B2); new mixed-use local (village) centre

(Classes E, C1, C2, C3, F.1, F.2 and sui generis uses); new strategic green infrastructure; and other associated infrastructure. All detailed matters (appearance, means of access, landscaping, layout, scale) are reserved for subsequent approval;

## Part 2 – Full Planning Application

The initial preparation and infrastructure works, including: earthworks, remediation, re-profiling and preparation; access works and other highway infrastructure; drainage; utilities; demolition and replacement of A34 bridge; strategic green infrastructure; and other associated infrastructure,

as set out in the Application.

“Footpath and Cycleway Contribution”	The sum of £500,000 (five hundred thousand pounds)
“Footpath and Cycleway Purposes”	The provision of new and improved off-site pathways and cycleways to link the Site with the local neighbourhood and key destinations
“High Level Phasing Plan”	The plans reference xxxxx and set out in Schedule 2 that sets out the number, location, extent and programming of construction Phases of the whole Site including details of when each element of the Common Areas, Strategic Green Infrastructure, mixed use village centre and employment uses as described in the Application are to be provided
“Initial Ecological Commuted Sum”	The sum of £1,842,389 (one million eight hundred and forty two thousand, three hundred and eighty nine pounds)
“Interim Maintenance and Management Scheme”	<p>A scheme providing full details of the maintenance and management proposals for each individual area of the Strategic Green Infrastructure following completion and prior to the transfer to the Management Company including but not limited to-</p> <ol style="list-style-type: none"> <li>1. identifying the maintenance requirements including all ongoing maintenance operations, specifically identifying the management objective, task and the timing and frequency of the operation for all the features of the area to include any hard and soft landscaping, surfacing materials, furniture, play equipment, refuse or other storage units, signs, lighting, boundary treatments, trees, shrubs and hedge plants, and,</li> <li>2. details who is to undertake the maintenance and management of the area to ensure that the area remains safe and as necessary available for public use</li> </ol>



<p>“Initial Primary Infrastructure Works” “IPIW”</p>	<p>Means the earthworks, remediation, re-profiling and preparation; access works and other highway infrastructure; drainage; utilities; demolition and replacement of A34 bridge; Strategic Green Infrastructure; and other associated infrastructure that form part of the full planning permission of the Development</p>
<p>“Level and Fully Serviced Condition”</p>	<p>the provision of adopted roads, sewers, water supply, gas, electricity and telecommunications (including the provision of broadband) to the boundary of the School Site with a capacity assessment to be submitted to the council to ensure sufficient capacity and the adequate provision of the service for the running of the New School and its associated infrastructure</p>
<p>“Remediated”</p>	<p>means free from any contamination which would limit, prevent or restrict the development and use of the School Site for its intended purpose (to the reasonable satisfaction of the Council as evidenced in writing) and the mitigation measures and recommendations detailed in any environmental contamination remediation scheme reasonably required by the Council have been carried out to the Council’s satisfaction;</p>
<p>“School Scheme”</p>	<p>a scheme identifying-</p> <ol style="list-style-type: none"> <li>1. the level of the School Site relative to the surrounding land, and,</li> <li>2. the location and depth of connection points for services, and</li> <li>3. details of the size, fall and capacity of the services to be provided in or adjacent to the access road to serve the School Site and provide it in a Level and Fully Serviced Condition, and,</li> <li>4. Traffic calming or 20mph speed limits on surrounding roads to the School Site, and</li> <li>5. Adopted public highway provided to ensure suitable vehicular access for building maintenance (not a cul-de-sac) and a separate suitable vehicular access to service the playing field</li> <li>6. an all weather sporting provision.</li> </ol>
<p>“School Site”</p>	<p>The site identified on the Fixed Parameters: Land Use Plan in a Remediated, Level and Fully Serviced Condition site providing for a new school in accordance with BB103 and associated ancillary areas to accommodate pupils of primary through secondary school age with a total size of not less than 3 hectares</p>

and provision of an all weather sporting provision, the exact details of which will be identified as a Reserved Matter

“Stockport Hall Moss Lane Improvements Contribution”

The sum of £387, 522.00 (three hundred and eighty seven thousand five hundred and twenty two pounds)

“Stockport Hall Moss Lane Works”

Improvement works for mitigating the traffic and transportation impacts of the Development at the Hall Moss Lane and Dairy House Lane junction located within Stockport MBC, the need for which arises directly from the Development

“Strategic Green Infrastructure Strategy”

A strategy that provides:

1. full details of the location of each element of the Strategic Green Infrastructure by reference to a plan.
2. for each element of Strategic Green Infrastructure:
  - the full details of the works to be undertaken;
  - any existing features that are to be retained and works to be undertaken to them;
  - an Ecological Works and Habitat Scheme
  - any ecological mitigation and enhancement works which are to be undertaken to create and increase the ecological value;
  - any footpaths or other rights of way that are to exist and/or currently exist and works to be undertaken to them;
  - any drainage function that is to be provided.
3. the programme and timing of works for each element of the Strategic Green Infrastructure and the Phase within which it is located.
4. whether the public will have access to each element of the Strategic Green Infrastructure in the future and how this will be achieved or restricted as necessary.
5. the Interim Maintenance and Management Scheme for each element of the Strategic Green Infrastructure

“Travel Plan Monitoring Contribution”

The sum of £10,000.00 (ten thousand pounds)

### 3. Undertaking

- 3.1.1 The Owner agrees to meet the relevant requirements of the S106 relating to the IPIW as referenced in Schedule 1.

## Schedule 1

<b>S106 Clause</b>	<b>DRAFT Owner covenants triggered by Phase 1</b>	<b>DRAFT Undertaking</b>
<b>Notifications</b>		
Clause 5.1.3	To notify the S106 Monitoring Officer within 5 days of 3 months prior to anticipated Commencement of Development	Within 5 working days of the date which is 3 months prior to the anticipated Commencement of Development an officer within the Economic Development Service shall email the CEC S106 monitoring officer, copying in the case planning officer
	To notify the S106 Monitoring Officer within 5 working days after Commencement of Development	Within 5 working days of Commencement Development an officer within the Economic Development Service will email the CEC S106 monitoring Officer copying in the planning Officer
	To notify the S106 Monitoring Officer within 5 working days after commencement of Strategic Green Infrastructure works	Within 5 working days of commencement of Strategic Green Infrastructure works an officer within the Economic Development Service will email the CEC S106 monitoring Officer copying in the Planning Officer

## Schedule 1

### Part 1 General Provisions

Clause 1	Not to Commence Development unless and until the Owner has submitted the Strategic Green Infrastructure Strategy and the Interim Maintenance and Management Scheme to the Council for approval and the Council has approved the Strategic Green Infrastructure	Prior to the Commencement of Development, an officer within the CEC Economic Development Service, will email the CEC S106 Monitoring Officer a copy of a Strategic Green Infrastructure
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Strategy and the Interim Maintenance and Management Scheme in writing.

Strategy and Maintenance and Management Scheme for approval.

The Council as Owner will ensure that any contract for the IPIW provides that development cannot commence until written approval of the Strategic Green Infrastructure Strategy and the Interim Maintenance and Management Scheme has been received from the LPA.

To implement the Strategic Green Infrastructure Strategy and the Interim Maintenance and Management Scheme in full, also in accordance with the approved High Level Phasing Plan.

Once the Strategic Green Infrastructure Strategy and the Interim Maintenance and Management Scheme have been approved in writing by the LPA, the Council as landowner will implement the Strategy and Scheme as so approved and also in accordance with the High Level Phasing Plan set out at Schedule 2.

The Strategic Green Infrastructure Strategy will set out the extent of landscaping to be undertaken as part of the IPIW. This will be included in the contract for the IPIW.

### Part 3 Open Space Provisions

#### Strategic Green Infrastructure

Clause 1.1 To undertake the Strategic Green Infrastructure Works in accordance with the Strategic Green Infrastructure Strategy as approved by the Council.

Strategic Green Infrastructure Works, in so far as they fall within the scope of the IPIW, will be undertaken in accordance with the Strategic Green Infrastructure Strategy as approved.

The remaining areas of Strategic Green Infrastructure on land within the Council ownership (which fall outside the scope of the IPIW) will be subject to a further MoU if they remain in the ownership of the Council at the time they come forward for development.

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| <p>Clause 1.2</p> | <p>Not without the prior written consent of the Council to undertake works other than the Strategic Green Infrastructure Works or works in accordance with the Strategic Green Infrastructure Strategy or CMMP or locate any compounds or undertake any activities on the Strategic Green Infrastructure without the prior written consent of the Council</p> | <p>For the duration of the IPIW this will be ensured by embedding this requirement into the contract for the IPIW. A copy of the contract will be shared with the LPA prior to completion of the contract.</p> <p>Upon completion of the IPIW the Interim Maintenance and Management Scheme will regulate activities within the Strategic Green Infrastructure.</p> |
| <p>Clause 1.3</p> | <p>To manage and maintain the elements of Strategic Green Infrastructure in accordance with the Interim Maintenance and Management Scheme as approved by the Council from the time they are provided to the reasonable satisfaction of the Council until transfer to the Management Company.</p>  | <p>In so far as Strategic Green Infrastructure provided falls within the scope of the IPIW, this will be managed and maintained in the manner set out in the Interim Maintenance and Management Scheme once approved.</p>   |
| <p>Clause 1.4</p> | <p>Following Commencement of Development, the area of the Handforth Dean Meadows and Ponds Local Wildlife Site that lies outside of the IPIW will be protected from any building works and will be managed and maintained in accordance with the Strategic Green Infrastructure Strategy for this area from the Commencement of Development.</p>              | <p>Protection of this area will be ensured by embedding the requirement for protection of this area into the contract for the IPIW. The contract will be shared with the LPA prior to completion of the contract.</p>   |

### **Ecological clauses**

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| <p>Clause 7.1</p> | <p>Prior to the Commencement of Development to pay the Initial Ecological Commuted Sum to the Council and the first five (5) years of the Annual Ecological Commuted Sum and not to permit or allow the Commencement of the Development unless and until the Ecological Commuted Sum and the first five (5) years of the Annual Ecological Commuted Sum have been paid to the Council for the Ecological Works Purposes and for the Ecological Management Purposes</p> | <p>Prior to Commencement of the Development the Initial Ecological Commuted Sum and 5 years Annual Ecological Commuted Sum will be made available for ecological off site mitigation necessitated by the IPIW.</p> |
| <p>Clause 7.2</p> | <p>Three (3) years from the date of the payment of the Initial Ecological Commuted Sum to the Council and thereafter annually on the same date for a period of twenty five (25) years to pay to the Council the Annual Ecological Commuted Sum for the Ecological</p>  | <p>Three (3) years from the date of the payment of the Initial Ecological Commuted Sum to the Council, the Annual Ecological Commuted Sum will be made available for ecological</p>                                |

Management Purposes

off- site mitigation necessitated by the IPIW on an annual basis for a period of 25 years.

#### **Part 4 Highways and Sustainable Transport Provisions**

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| <p>Clause 1.1</p> | <p>Prior to the Commencement of Development to pay to the Council the Stockport Hall Moss Lane Improvements Contribution for the Stockport Hall Moss Lane Improvements Works and not to allow or permit the Commencement of Development until the Stockport Hall Moss Lane Improvements Contribution has been paid in full.</p> | <p>Prior to Commencement of Development, the Stockport Hall Moss Lane Improvements Contribution will be paid to the LPA for the Stockport Hall Moss Lane Works.</p> |
| <p>Clause 1.6</p> | <p>Prior to the Commencement of Development to pay to the Council the Footpath and Cycleway Contribution for the Footpath and Cycleway Purposes and not to allow or permit the Commencement of Development until the Footpath and Cycleway Contribution has been paid in full.</p>  | <p>Prior to Commencement of the Development the Footpath and Cycleway Contribution will be made available to the LPA for the Footpath and Cycleway Purposes.</p>    |
| <p>Clause 1.7</p> | <p>Prior to the Commencement of Development to pay to the Council the Travel Plan Monitoring Contribution for the Travel Plan Monitoring and not to allow or permit the Commencement of Development until the Travel Plan Monitoring Contribution has been paid in full</p>   | <p>Prior to Commencement of Development the Travel Plan Monitoring Contribution will be made available to the LPA for Travel Plan Monitoring.</p>                   |

#### **Part 5 Education Provisions**

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| <p>Clause 1.3</p> | <p>A School Scheme will be submitted to the Council for approval prior to the Commencement of Development and Commencement of Development will not take place unless and until the School Scheme has been approved in writing. Any subsequent amendment or variation to the School Scheme must be approved in writing by the Council and the approved School Scheme must be complied with.</p> | <p>A School Scheme will be submitted to the LPA for approval prior to Commencement of Development and the owner agrees that any further variations to the School Scheme must be approved in writing by the Council.</p>  |
| <p>Clause 1.4</p> | <p>The School Site at the point of appropriation to the Education Department of the Council will;</p> <p>a) not be crossed by public right of way or access, crossed by or bounded by power lines, crossed by gas mains.</p>   | <p>Prior to entering into a contract for the IPIW the Council as landowner will ensure that any specific requirements relating to the School Site will be included in that contract. The contract will be shared with the LPA prior to completion of the contract.</p> |

b) be free of items or structures of archaeological interest, protected species or habitats, and not be part of a conservation area or have planning restrictions

c) be free from buildings and other surface structures, trees and abutting trees, pipes and underground cables, spoil, land fill and fly tipping and void spaces such as wells, sumps and pits.

d) be Remediated and free from invasive plants such as Japanese Knotweed.

e) be outside any current or proposed 57dBA Leq noise contour and not materially affected by potential sources of noise, air or light pollution.

f) be available and accessible for investigation purposes. Vehicular access must be suitable for construction and commissioning purposes.

g) Provide services at sufficient capacity to enable the running of the New School and its associated infrastructure and provide a services assessment to the Council to show that the services provided are sufficient to make adequate provision for the New School and associated infrastructure.

h) be fully secured against any unauthorised access to the satisfaction of the Council

Clause 1.6 To ensure that any Disposal of land lying adjacent to the School Site will contain a covenant preventing the formation of openings in the boundary into the School Site.

The Council as landowner will ensure such a covenant is embedded into any documentation for the disposal of any land in the Council's ownership which lies adjacent to the school site.

Clause 1.7 To permit the Council to enter the School Site on prior reasonable notice for the purpose of undertaking survey work until the date that the School Site is transferred and following transfer of the School Site to provide Access to the School Site (whether temporary or not) to allow the construction of the new school. If the Access is via a temporary route, then the Owner shall be entitled to replace the whole or part of the access roads or appropriate parts of them

The Council as landowner will include a clause in the contract for the IPIW requiring reasonable access be given for this purpose by the IPIW contractors subject to prior notice as specified.

and shall permit the Council to use the same.

Clause 1.8 To provide a safe, reasonable, unrestricted and health and safety compliant pedestrian access to the School Site for children attending the School Site from each residential Phase of the Development, if necessary, via a temporary route, from the date of opening of the school to be located on the School Site

*This clause requires discussion with the LPA to better understand what is required.*

## Part 7 Timing

Clause 1.2 Not to permit the Initial Primary Infrastructure Works to be undertaken within a 5 metre radius of the listed building known as Dairy House Farm until the works of stabilisation and repair have been completed in accordance with listed building approval 20/1942M.

The Council as landowner will ensure the stabilisation and repair works at Dairy House Farm as approved under 20/1942M will be implemented prior to any IPIW occurring within 100m of Dairy House Farm.

In line with the Councils Financial Scheme of Delegation, in relation to payment or assignment of each commuted sum, the appropriate written decision will be made and recorded either via ODR, the appropriate Committee or full Council.



<b>Report Reference</b>	<b>Economy and Growth Committee Date</b>	<b>Title</b>	<b>Purpose of Report</b>	<b>Lead Officer</b>	<b>Consultation and Engagement Process and Timeline</b>	<b>Equality Impact Assessment</b>	<b>Corporate Plan Priority</b>	<b>Part of Budget and Policy Framework</b>	<b>Exempt Item and Paragraph Number</b>
EG/09/23-24	14/11/2023	Second Financial Review of 2023/24	To note and comment on the Second Financial Review and Performance position of 2023/24 and approve Supplementary Estimates and Virements.	Director of Finance and Customer Services (s151 Officer)	No	No	Open	Yes	No
EG/11/23-24	14/11/2023	Medium Term Financial Strategy Consultation 2024/25 - 2027/28	To respond to the budget consultation	Director of Finance and Customer Services (S151 Officer)	Yes	No	Open	Yes	No
EG/17/23-24	14/11/2023	Central Crewe Business Improvement District (BID) Proposal	To consider the implications of the BID proposal for the Council as the owner of hereditaments within the BID area.	Director of Growth and Enterprise	No	No	Green	No	No
EG/16/23-24	14/11/2023	Notice of Motion: Hydrogeology Report - SMDA	To consider the Notice of Motion: Hydrogeology - SMDA	Director of Growth and Enterprise	TBC	TBC	Open	TBC	TBC
EG/18/23-24	14/11/2023	Royal Arcade, Crewe	To receive an update on development proposals/options for the Royal Arcade (Phase 2)	Director of Growth and Enterprise	Yes	TBC	Green	TBC	Yes

			site, Crewe and to consider recommendations for next steps.						
EG/19/23-24	14/11/2023	The Great British Insulation Scheme and Eco Flexibility	A revised Statement of Intent is required under the Flexible Eligibility scheme, to enable the Council to verify additional households to benefit from the new scheme.	Head of Housing	No	No	Green	No	No
EG/10/23-24	16/01/2024	Third Financial Review of 2023/24 (Economy & Growth Committee)	To note and comment on the Third Financial Review and Performance position of 2023/24 and approve Supplementary Estimates and Virements.	Director of Finance and Customer Services (S151 Officer)	No	No	Open	Yes	No
EG/12/23-24	16/01/2024	Medium Term Financial Strategy Consultation 2024/25 - 2027/28 Provisional Settlement Update	To respond to the budget consultation.	Director of Finance and Customer Services (S151 Officer)	Yes	No	Open	Yes	No