

Cabinet

27 November 2019

Report of: **Leader of the Council**

INFRASTRUCTURE FUNDING AGREEMENT WITH LEICESTERSHIRE COUNTY COUNCIL

1.0	Corporate Priority	Decision Type:
1.1	Promoting aspiration and growth in a vibrant economy, attracting quality jobs.	Key Decision
1.2	Developing a thriving town centre and rural offer; recognised as a great place to invest, live and visit.	
1.3	Increasing the availability of good quality homes which meet local needs.	
1.4	Working with our partners to improve physical and digital infrastructure.	
1.5	Becoming a more agile and commercial council; securing our financial future.	

2.0	Summary	
2.1	In December 2017 Melton Borough Council made a principle commitment to provide financial support to Leicestershire County Council for the construction of the northern and eastern parts of the Melton Mowbray Distributor Road (MMDR). This followed a previous contribution of £400k in 2016 to support the development of the business case. The heads of terms, developed in support of the now successful bid to the Local Authority Major Roads Fund, was based on making a contribution from additional revenues generated from housing and business growth associated with the MMDR. A fundamental component of the agreement was that it should not undermine the financial integrity of the Council.	
2.2	With confirmation of government funding for the northern and eastern sections of the road, the focus moved to a bid to support the southern section of the road through the Housing Infrastructure Fund (HiF). Prior to submitting the bid discussions commenced regarding the extension of the agreement to incorporate the financial requirements associated with both the southern section and wider infrastructure needs within Melton.	
2.3	The HiF bid for the southern section of the road has now been confirmed. The basis for a significant infrastructure funding agreement has been reached and this is presented for Cabinet to consider and recommend to Council for approval. LCC wish the full agreement to be in place before they sign their funding agreement with Home England which is expected to be by the end of the current financial year.	

3.0	Recommendations
	That Cabinet:
3.1	Supports the principles of an infrastructure funding agreement with Leicestershire County Council as set out in the report and recommends to Council that Melton Borough Council enters into an infrastructure funding agreement.
3.2	Recommend to Council that delegated authority be granted to the Chief Executive in consultation with the Leader, the Director for Governance & Regulatory Services and the Director for Corporate Services to negotiate the terms of the legal agreement with the County Council.
	Recommend to Council that delegated authority be granted to the Director for Governance and Regulatory Services to complete the associated legal documentation.

4.0	Reason for Recommendation
4.1	The proposal recognises the Council's aspirations to facilitate sustainable growth within Melton and that significant infrastructure is required to support delivery of the approved Local Plan.
4.2	Melton Borough Council has been a key partner in promoting and supporting the delivery of the relief road and the proposal enables the Council to make a significant financial contribution to future infrastructure costs; using the proceeds of growth, whilst protecting and ensuring the council's future financial viability.
4.3	The proposal takes into account the financial pressure and risks on this Council's finances and proposes an affordable solution which also demonstrates its commitment to working proactively with the County Council to achieve mutually beneficial objectives.

5.0	Alternate Options Considered
5.1	Through discussions with the County Council a range of alternative options and funding models were considered. Through negotiation the current proposal represents the most appropriate balance between ensuring Melton Borough Council supports delivery of the road infrastructure whilst also ensuring any contribution is affordable and would not undermine the long term sustainability of the council.

6.0	Report Detail
6.1	Across Leicestershire there are numerous infrastructure requirements to support the growth aspirations set out within the adopted Strategic Growth Plan. Leicestershire County Council is keen to establish infrastructure funding agreements with district councils to maximise the potential to deliver in an affordable way. Over a number of years Melton Borough Council has worked closely with the County Council to secure the necessary infrastructure investment required to support the growth planned.
6.2	In 2016 Melton contributed £400k to support the business case for the distributor road. The business case helped secure £50m from the Local Authority Majors Fund; in support of the northern and eastern sections of the MMDR. Heads of

Terms were agreed between both councils in December 2017; creating the basis for a funding agreement to underwrite any risks associated with securing the necessary developer contributions for the remaining costs of the scheme.

6.3 In March 2019 the County Council submitted a bid to the Housing Infrastructure Fund to support delivery of the southern section of the road. To support this discussions have been taking place with the County Council regarding the extension of the original heads of terms to include the southern section of the road and wider infrastructure needs.

6.4 The Council's Corporate Committee considered an initial proposal from the County Council at its meeting on 14th March 2019 and resolved the basis upon which the Council could reach an agreement. Authority was delegated to the Chief Executive in consultation with the Leader to continue negotiations. Following further discussions the principles for an agreement have now been established with the County Council. With the announcement of the HIF award in early November and the anticipated acceptance by the County Council's Cabinet at their meeting on 22nd November, it is appropriate for Melton' to consider the principles upon which the infrastructure funding agreement with the County would be based:

- The agreement will relate to the costs associated with the northern, eastern and southern sections of the road. Through discussions with the County Council it has been agreed that any costs associated with delivering wider infrastructure needs like schools or leisure will not be included within the agreement.
- Melton Borough Council would contribute 50% of New Homes Bonus provided by those new homes delivered as a consequence of the road; over and above a baseline which protects the council's core funding streams identified within its Medium Term Financial Strategy. This would be used to support the infrastructure funding gap until such time as developer contributions are received. Under current modelling assumptions this would equate to approximately £6m by 2035/36;
- That growth in council tax from new properties above an allowance for growth retained by Melton, be used to support the infrastructure funding gap until such time as developer contributions are received. This amount being reduced by the direct costs of the waste service required to be retained by Melton to service these new properties. Under current modelling assumptions this would equate to approximately £50k by 2035/36;
- That these contributions will be paid back to Melton Borough Council at the point sufficient highway developer contributions are secured against the costs incurred.
- That a number of trigger clauses for review be included should there be any significant change in government funding streams and/or cost projections
- The agreement would be time limited up to 2035/36 resulting in any new homes built after this time and any s106 received after that time relating to the associated infrastructure not being included in the model. This will effectively draw a line under the arrangement from this point;

6.5 As part of any agreement the County Council will confirm and maintain its commitment to the wider Melton Mowbray Transport Strategy and to work with

Melton Borough Council on the wider town centre strategy and regeneration aspirations.

6.6 For clarity, the total projected costs associated with the road as submitted as part of the funding bids are as follows:

- North and East sections of the distributor road (total cost £63m, £49m funding received, £14m gap to be ultimately funded by developer contributions; underwritten as part of this agreement)
- Southern section of the distributor road (£28m cost, to be met by the £15m bid to the HIF, with £13m gap to be funded by developer contributions; underwritten as part of this agreement).
- In addition the financial model includes provision for contingency due to the nature of the works.

6.7 The County Council have indicated their wish that the agreement will need to be signed prior to them entering into a contract with Homes England which is anticipated prior to the end of the financial year.

7.0 **Consultation and Feedback (including Scrutiny Committee)**

7.1 All Member briefings have been held to provide information and answer Members' queries relating to the various options and associated implications.

8.0 **Next Steps**

8.1 Due to the financial implications of the proposals the recommendation once agreed by Cabinet will need to be considered and approved by Council at its meeting on 18th December 2019.

8.2 Subject to Council approval a formal legal agreement will need to be agreed and entered into by both parties. It is anticipated this will need to be concluded by the end of the financial year.

9.0 **Financial Implications**

9.1 The funding agreement would pass a portion of Council grant and tax related funding to the County Council in order to support infrastructure funding until such time as developer contributions are received.

9.2 New Homes Bonus rewards housing growth above a baseline with 80% of the funding coming to districts and 20% to upper tier authorities. Through this agreement Melton Borough Council will provide a proportion of this funding generated from homes delivered as a consequence of the road to support infrastructure needs, New Homes Bonus utilised within the Council's MTFs as part of its core budget will be protected.

9.3 Whilst the agreement will contain protections for Melton Borough Council's current core funding it will commit part of the Council's future revenue streams and therefore will place limitations on future spending power. Entering the infrastructure agreement may fetter the Council's ability to fulfil future policy aspirations or address future financial challenges. Whilst this risk cannot be discounted, given the priority Melton Borough Council has given to delivering the MMDR it is considered appropriate to proceed.

9.4 Furthermore, the Fair Funding review will identify what local authorities need based on their obligations. It will not account for any local agreements in two tier

areas therefore any funding agreement will affect Melton Borough Council's future spending power for its responsibilities. This risk is somewhat mitigated by the review trigger should funding streams significantly alter. A technical consultation is already underway relating to finances and this proposes the discontinuance of NHB however the alternative funding streams are not yet clear and therefore elements of the funding agreement could become the subject of a review quite early in the process.

- 9.5 The Council has suffered a significant loss of funding in recent years with RSG, a core funding stream, ending completely from 2019/20. The Council utilised reserves in 2019/20 to balance its budget as well as contributing to non-recurring items of expenditure. Risks in relation to diminishing reserves have previously been highlighted to Council and that ultimately if this projection continues it would be unsustainable.

10.0 Legal and Governance Implications

- 10.1 Heads of Terms have previously been agreed with LCC relating to the northern and eastern sections of the road. This followed their approval by the Council's Policy Finance and Administration Committee on 7th December 2017.
- 10.2 The Heads of Terms and the outcome of subsequent negotiations will form the basis for the formal legal agreement. Delegated authority is requested to enable any legal agreements to be finalised and completed by the Director for Governance and Regulatory Services.
- 10.3 Legal should be instructed to ensure that any authorities granted are reflected in the relevant legal documentation where necessary.

11.0 Equality and Safeguarding Implications

- 11.1 There are no equalities or safeguarding issues as a result of this report.

12.0 Community Safety Implications

- 12.1 There are no community safety implications as a result of this decision.

13.0 Other Implications

- 13.1 All implications are set out within the report

14.0 Risk & Mitigation:

14.1 The risks as a result of this proposals are set out in the following table:

L I K E L I H O O D	A	Very High		1		
	B	High			2	
	C	Significant				
	D	Low			3	
	E	Very Low				
	F	Almost Impossible				
			Negligible 1	Marginal 2	Critical 3	Catastrophic 4

IMPACT

Risk No	Risk Description
1	There is a change to central government funding which negates the funding proposal resulting in further negotiations over a revised infrastructure funding agreement.
2	Funding agreement undermines the Council's ability to respond to future financial shocks or service issues. This is partially mitigated through baseline and review protections which will be built into the agreement. The financial challenge faced by councils cannot be underestimated and the Councils future spending power will be reduced as a result of this agreement
3	Agreement cannot be reached over the detail contained within the formal legal agreement leading to further negotiations and risk to the project delivery

Background Papers:

Report to Corporate Committee 14 March 2019 (EXEMPT)
 Report to Policy Finance and Administration Committee 7 December 2017

Appendices

None

Report Timeline	Date of Sign-off:
Equalities Check & Challenge	N/A
SLT Sign off	N/A
Previously Considered by Cabinet	N/A
Director Approval	N/A
Legal Approval	15.11.19
Finance Approval	14.11.19
Monitoring Officer Sign Off	14.11.19
Chief Executive Sign Off	18.11.19

Report Author
Dawn Garton - Director for Corporate Services ☎: 01664 502444