

Executive Report

Ward(s) affected: Stoke

Report of Joint Strategic Director of Place, Dawn Hudd

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## Weyside Urban Village Development

### Executive Summary

Weyside Urban Village ("WUV") is a major 41-hectare brownfield regeneration scheme that Guildford Borough Council (the "Council") anticipates could deliver approximately 1,500 homes across a range of tenures, as well as 2,000 square metres of community space and 6,500 square metres of employment space.

In February 2020 the Council committed £334.9 million to fund the site assembly and infrastructure construction to enable the development of the WUV site, intended to be fully recovered from the sale of ten land plots to housing developers and secured grant funding from Homes England and Enterprise M3 LEP.

Full Council approval was based on financial modelling information demonstrating that the project would at least break even after undertaking activities such as securing planning consents and funding to ensure that the project has greater or equal value to the receipts received.

Over 44% of the site is currently in Council ownership, and 100% will be achieved on completion of land transfers with Thames Water Utilities Ltd ("TWUL"). The conditional contract with TWUL was signed on 25 April 2019 (the "TW Agreement") to fund and enable the relocation of the existing sewage treatment works on the Council's former landfill site freeing up the land for development.

The Council secured £52.3m grant funding from Homes England and signed a Grant Determination Agreement with Homes England in July 2020 to draw down the grant expenditure associated with the implementation of the infrastructure works, that are now in progress. In October 2021 Planning Committee issued a Resolution to Grant for the hybrid planning application for Weyside, with the decision notice to approve the application issued in March 2022.

The broader economic landscape and its impact on the construction industry over the past 12 – 18 months has been profound. At the end of 2021, the Building Cost Information Service (BCIS) – which provides cost and price data for the UK construction industry - reported that the annual growth in its material cost index reached a forty year high. Since then, pressures on supply chains have persisted and labour shortages have become more acute. Although the lifting of Covid restrictions led to a return to high activity levels, the war in Ukraine and high rates of inflation have put the construction industry in further turmoil. The impact of these issues is being felt at a local level, with forecast construction and financing costs also increasing significantly.

It was agreed with the Executive that the project team would report the financial position to the Executive on an annual basis. This report sets out the financial forecast to the end of the programme, as well as proposed mitigation to address the potential financial deficit that has arisen as a result of macro-level factors.

**Recommendations to Executive:**

- (1) To note the current forecasted eventual deficit, as set out in exempt Appendix 1 to this report, in 2033 (year 10 of the project delivery programme) and resulting General Fund revenue implications, noting that this is based on a number of variables outlined within Section 4 of this report (Financial Implications).
- (2) To recommend that Full Council (at its extraordinary meeting on 16 January 2023) approves the continuation of the project until officers have completed the required due diligence described in recommendations (3) and (4) below and report back to Full Council.
- (3) To request officers to provide alternative risk assessed option appraisals other than to proceed with the original Full Council approved scheme, including all possible mitigations and alterations to the current funding and specifications, indicating by use of a range of values where specific data is not available, and a full explanation of assumptions with reasons, sufficient to enable Members to make a fully informed decision on how it wishes to proceed at Full Council in July 2023.
- (4) To request officers to update the project with the latest assumptions, indices and valuations and report back to the July 2023 Full Council.
- (5) To approve the transfer of £72.062m from the provisional capital programme to the approved capital programme for payments which the Council is obliged to make to TWUL under the TW Agreement for 2022/23 and 2023/24, for costs necessary to meet the milestones set within the Homes England HIF agreement and design cost necessary to prepare the planning application for the SCC Waste Transfer Centre and construction of the New Council Depot.

- (6) To delegate to the Strategic Director of Place, in consultation with the Lead Councillor for Regeneration, and Lead Councillor for Finance and Planning Policy, authority to enter into such other contracts and legal agreements connected with the WUV as may be necessary in compliance with Procurement Procedure Rules and within the approved budget.

Reason(s) for Recommendation:

The projected deficit, and significantly wide variation and uncertainty of the outcome of this project, renders the project as no longer compliant with the Full Council approval to break even at zero cost to the Council, i.e. the project has greater or equal value to the receipts received. At this point Officers do not have Full Council authority to incur any further expenditure until councillors have considered their full options and implications. However, temporarily stopping expenditure is not realistic due to contractual commitments.

The recommendations will:

- Ensure that there is sufficient understanding of the projected financial forecast of the programme.
- Ensure that there is sufficient funding in the approved programme to cover the phase 1 & 2 infrastructure costs, SCC Waste Transfer Centre design cost, construction of the new Council Depot and the payments which the Council is obliged to make to TWUL under the Thames Water Agreement for 2022/23 and 2023/24.
- Ensure that statutory service agreements and construction agreements can be entered into for the delivery of services and infrastructure for the development and to ensure that Homes England Housing Infrastructure Fund (HIF) milestones are achieved.
- Support the delivery of the Council's Corporate Plan (2021-2025) priorities, by supporting high quality development of a strategic site, creating employment opportunities through regeneration and facilitating housing that people can afford.

**Is the report (or part of it) exempt from publication?**

Yes, in part. Appendices 1 to 6 are exempt.

(a) The content is to be treated as exempt from the Access to Information publication rules because and is therefore exempt by virtue of paragraphs 3 and 5 of Part 1 of Schedule 12A to the Local Government Act 1972 as follows:

- Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

- (b) The content is restricted to all councillors.
- (c) The exempt information is not expected to be made public because the information in the report is commercially sensitive.
- (d) The decision to maintain the exemption may be challenged by any person at the point at which the Executive is invited to pass a resolution to exclude the public from the meeting to consider the exempt information.

## **1. Purpose of Report**

### **1.1 The purpose of the report is to:**

- Provide the Executive with an update of the legal and financial work carried out so far, together with a review of the financial position of the programme at the Autumn 2022 Financial Review.
- Seek approval to transfer £72.062 million from the provisional capital programme to the approved capital programme for payments which the Council is obliged to make to TWUL under the TW Agreement for 2022/23 and 2023/24, for costs necessary to meet the milestones set within the Homes England HIF agreement and design cost necessary to prepare the planning application for the SCC Waste Transfer Centre and for costs necessary to construct the New GBC Depot.
- Update the Executive on the current forecasted eventual deficit (as set out in exempt Appendix 1) in 2033 and resulting General Fund revenue implications.

## **2. Strategic Priorities**

### **2.1 The recommendations in this report relate to the following priorities in the Council's Corporate Plan 2021 – 2025:**

- Provide and facilitate housing that people can afford.
- Create employment opportunities through regeneration.
- Support high quality development of strategic sites.
- Work with partners to make travel more sustainable and reduce congestion
- Make every effort to protect and enhance our biodiversity and natural environment.

### **2.2 WUV is also identified as a key programme within the Corporate Plan, providing a new riverside community of 1,500 homes on brownfield land at Slyfield.**

### **3. Background**

- 3.1. WUV is a major 41 ha. brownfield regeneration scheme that the Council anticipates could deliver approximately 1,500 homes across a range of tenures as well as an additional 2,000 square metres of community space.
- 3.2. The Council has been working for over 15 years to de-risk the infrastructure and site assembly process. This includes undertaking activities such as securing planning consents and funding to ensure that the project has greater or equal value to the receipts received. Significant progress has been made in de-risking the scheme through the completion of the TW Agreement and the Grant Determination Agreement (GDA).
- 3.3. Housing is of great significance to the Borough and forms a major theme to the Adopted Local Plan. There is an ongoing shortage of affordable housing, particularly for first time buyers which in turn contributes to a skill shortage in the Borough.
- 3.4. The Council has been awarded a £52.3m grant from the Homes England Housing Infrastructure Fund. The GDA was completed on 29 July 2020. The GDA includes monthly reporting and quarterly monitoring returns against agreed baseline project deliverables and milestones. There are financial & legal implications of not meeting these milestones, including the withdrawal of the grant facility and potential repayment of expended grant to date.
- 3.5. The Council has also been awarded a £7.5m grant from EM3 Local Enterprise Partnership and the contract was completed on 2 December 2019. An additional grant of £550,000 was awarded to the Council to enable the relocation of community facilities.
- 3.6. The Council entered into the TW Agreement to fund and enable the relocation of the existing sewage treatment works and the delivery of a new facility on the Council's former landfill site. Thames Water have achieved planning consent and the transfer of the New Sewage Treatment Works site will take place in February 2023 to enable construction to commence.
- 3.7. On 15 December 2020, the WUV Project Team submitted a Hybrid Planning Application to Guildford Borough Council acting as Local Planning Authority (LPA) for the redevelopment of part of the allocated site for the WUV comprising: Outline planning approval for the demolition of existing buildings and infrastructure and outline planning permission for up to 1550 dwellings; local centre, up to 500 sqm of flexible community space, up to 6,600 sqm of flexible employment space, new Council Depot Site, 6 Gypsy and Traveller pitches and associated road infrastructure. Full planning permission for the development of primary and secondary site accesses, engineering operations associated with remediation and infrastructure, utilities, and drainage.
- 3.8. In August 2020 the Council received a notice of refusal from the Secretary of State for the relocation of the Bellfields Allotments. A revised application for the part relocation of the Bellfields Allotments was submitted to the

Secretary of State (MHCLG) on 23 June 2021. An approval was granted to the disposal/relocation of 1.91ha on 10 February 2022. The Guildford Allotment Society sought to challenge the Net Land area of disposal granted by the Secretary of State and a clarification was received on 8 November 2022 giving consent to the relocation of 2.58Ha of statutory allotment land.

- 3.9. At its meeting on 6 July 2021, the Executive authorised the then Managing Director in consultation with the Leader of the Council, to sign and complete the deed of variation to the development agreement with TWUL. It was noted and recorded that the land to be acquired by the Council from TWUL, pursuant to the development agreement and any further land to be acquired by the Council in connection with the WUV is to be acquired pursuant to section 227 of the Town and Country Planning Act 1990.
- 3.10. At its meeting on 21 September 2021, the Executive authorised the transfer of £67.1m from the provisional capital programme to the approved capital programme for payments which the Council is obliged to make to TWUL under the TW Agreement for 2021/22 and 2022/23, for costs necessary to meet the milestone set within the Homes England HIF agreement and design costs necessary to prepare the planning application for the SCC Waste Transfer Centre.
- 3.11. The procurement of the infrastructure works has commenced to meet the Homes England Housing Infrastructure Funding milestones and to enable draw down of the grant expenditure. Contracts for the infrastructure works will be concluded on completion of satisfactory Section 278/ Section 38 approvals and other legal agreements with statutory undertakers as required.

#### **4. Financial implications [Set out in Exempt Appendix 1]**

#### **5. Project Risks**

- 5.1. An extract from the current WUV risk register is attached at Appendix 4 and outlines the ten main risks associated with the programme.
- 5.2. A proposed mitigation strategy is attached at Appendix 5 in relation to addressing the potential financial deficit outlined in this report.

#### **6. Consultations**

- 6.1. Updates on the progress of the WUV Programme have been provided to Councillors at the quarterly Weyside Governance Board and the Major Projects Portfolio Board.
- 6.2. The Executive received a full briefing on the financial position of the WUV programme on 24 November 2022 and a briefing for all Councillors is scheduled for 3 January 2023.
- 6.3. It is intended that the regularity of reporting to the Executive on the progress of the programme and financial position is reviewed, as set out in the Recommendations in this report.

## **7. Legal Implications**

- 7.1. The Council's internal legal and procurement officers are providing support to the WUV project team in relation to procurement of consultancy services and construction contracts to ensure compliance with the Council's legal duties including the Public Contracts Regulations 2015 and the Council's Procurement Procedure Rules, and to enter into associated contracts.
- 7.2. In relation to the contracts and legal agreements which are required for the WUV going forward the Council has various statutory powers to enter into contracts, including:
  - Section 1 Local Government (Contracts) Act 1997 for the provision of assets (including land & buildings) and/or services in connection with the discharge of the Council's statutory functions.
  - Section 111 Local Government Act 1972 incidental to the discharge of a statutory function.
  - Section 1 Localism Act 2011 the general power of competence (subject to certain limitations).
- 7.3. DWF, have been appointed as external legal adviser to the Council, providing specific advice on property, planning and contractual matters to be addressed, including s106 and planning permission, deregistration of common land and appropriation of land.
- 7.4. In addition, various agreements under statutory provisions with other bodies and authorities will be required, for example Surrey County Council in relation to the construction and adoption of highways.
- 7.5. Officers acting under delegated authority to enter into the contracts and agreements referred to in this report will ensure that the costs are subject to Value for Money consideration and that the procurement route is appropriate in line with the Council's procurement and financial procedure rules.

## **8. Human Resource Implications**

- 8.1. The WUV programme is sponsored by the Strategic Director - Place and led by the Executive Head of Regeneration and Planning Policy. The workstreams within the programme are being managed by the WUV project team, headed up by the Regeneration Lead (interim). The WUV project team comprises a Development Manager (interim), Development Surveyor (interim), Project Manager (interim), Finance Analyst (interim) and a Project Support Officer.
- 8.2. The proposed recommendations will be delivered within the existing resourcing outlined, in alignment with the approved budget provision.

## **9. Equality and Diversity Implications**

- 9.1. The Council has a statutory duty under section 149 of the Equality Act 2010 which provides that a public authority must, in exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.2. This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report. A full Equality Impact Assessment has been prepared for the programme and will be reviewed as the programme progresses and individual projects are brought forward for delivery.

## **10. Climate Change/Sustainability Implications**

- 10.1. The Council formally declared a climate emergency in July 2019 and set a goal for the borough to reach net zero emissions by 2030. The Council is committed to reducing emissions, particularly from vehicles, energy use and construction processes. These objectives have been and will continue to be considered at all stages of the design and implementation of Weyside Urban Village.

## **11. Options**

- 11.1 OPTION 1: The Council could decide to continue with the project, but not implement the proposed mitigations. This is not recommended given the potential financial exposure facing the Council as outlined in Section 4 above.
- 11.2 OPTION 2: The Council could decide to exit the project. Non-delivery of the Weyside Urban Village programme and the associated c.1500 homes will have implications for the delivery of the Local Plan. Further information is contained in exempt Appendix 1.
- 11.3 OPTION 3 (Recommended): The Council could decide to approve and endorse the recommendations outlined within this report, including implementing the proposed mitigations, and continue with the regeneration programme to realise the benefits identified in the full business case until a risk assessed option appraisal is reported to Full Council in July 2023. This will include an updated position on the mitigation measures outlined within this report, including the impact of these on the overall financial position of the scheme.

## **12. Conclusion**

- 12.1. The WUV programme has major benefits for Guildford by delivering c.1,500 homes, new employment space, community facilities, a new sewage treatment works, relocation/ new provision of the SCC Waste Transfer Centre all within a brownfield site.
- 12.2. It is therefore proposed that the Executive approves the recommendations outlined in this report to enable the continuation the WUV programme.

## **13. Background Papers**

[Extraordinary Full Council Meeting 10 Feb 2020](#)

[Executive report 6th July 2021](#)

[Executive report 21 September 2021](#)

[Hybrid Planning Consent issued 30 March 2022](#)

[EQIA May 2021](#)

## **14. Appendices (all exempt from publication)**

Appendix 1: Financial information

Appendix 2: Reappraised financial position of WUV with mitigation

Appendix 3: Sensitivity analysis on key assumptions

Appendix 4: Table of 10 Main Risks from current WUV Risk-Register

Appendix 5: Proposed mitigation strategy

Appendix 6: Legal opinion