

EXECUTIVE REPORT

Agenda
Item:

A.1

Meeting Date: 27th May 2020
Portfolio: Economy, Enterprise & Housing
Key Decision: Yes
Within Policy and Budget Framework No
Public / Private Public

Title: Carlisle Southern Link Road Housing Infrastructure Fund Grant Determination Agreement
Report of: Corporate Director of Economic Development
Report Number: ED23/20

Purpose / Summary:

The report seeks approval for the Council to enter into a Grant Determination Agreement (GDA) with Homes England (alongside Cumbria County Council) for £102m of grant funding from the Ministry of Housing Communities and Local Government's Housing Infrastructure Fund (HIF) to enable the delivery of the Carlisle Southern Link Road and the consequential facilitation of the development of 10,325 new homes at St Cuthbert's Garden Village to the south of Carlisle.

Recommendations:

It is recommended that Executive

1. Note and accept the obligations upon Carlisle City Council within the GDA to support the delivery of the Carlisle Southern Link Road and to facilitate the development of up to 10,325 new homes at St Cuthbert's Garden Village to the south of Carlisle.
2. Delegate authority to the Corporate Director of Governance & Regulatory Services, following consultation with the Corporate Director of Economic Development, Corporate Director of Finance & Resources, Leader, and Portfolio Holder for Economy, Enterprise and Housing to enter into the Grant Determination Agreement with Homes England, alongside Cumbria County Council (who will receive £102m of

grant funding to construct the Carlisle Southern Link Road), in line with the draft agreement attached at Appendix 1.

3. Delegate authority to the Corporate Director of Governance & Regulatory Services, following consultation with the Corporate Director of Economic Development, Corporate Director of Finance & Resources, Leader, and Portfolio Holder for Economy, Enterprise and Housing to enter into a separate Contribution Agreement with Cumbria County Council whereby the City Council will be obliged to pay £5,000,000 towards the cost of the Carlisle Southern Link Road and to cover more detailed practicalities of monitoring, reporting, financial contributions and liabilities within the overall parameters of the GDA. The County Council has supplied some draft heads of terms which are attached at Appendix 2: negotiation on these is needed.

Tracking

Executive:	27th May 2020
Scrutiny:	
Council:	

1. BACKGROUND

- 1.1** The Carlisle District Local Plan (2015-2030) identifies a broad location for strategic housing growth to the south of the City. With potential for approximately 10,000 new homes, the project is now being progressed under the working title of St. Cuthbert's Garden Village following its inclusion (in January 2017) in the Government's Locally Led Garden Communities programme.
- 1.2** To unlock and accelerate delivery of St Cuthbert's Garden Village there is a requirement to deliver a new Carlisle Southern Link Road (CSLR) connecting Junction 42 of the M6 with the A595 to the west of the City. This conclusion has been arrived at following a comprehensive evidence led assessment of infrastructure requirements. Support for the delivery of the CSLR specific to St Cuthbert's is explicit within the Carlisle District Local Plan. The new road would also enhance strategic east to west connectivity and enhance network resilience. It would also reduce through traffic in the City Centre; ease congestion; and consequently ease air quality pressures, including in areas to the south of the City which experience health inequalities and deprivation.
- 1.3** In 2017 the Government launched MHCLG's £5bn Housing Infrastructure Fund (HIF). This fund is intended to support the delivery of significant housing growth and included separate funds, the Marginal Viability Fund for schemes up to £20m in value and the Forward Fund for schemes up to £250m in value. In two tier local government environments, the Government required that applications to the Forward Fund were made by the upper tier authority. In September 2017, with the support of Carlisle City Council, Cumbria County Council submitted a Forward Fund expression of interest for the CSLR to the Government.
- 1.4** In March 2018 the Government advised that the Expression of Interest for the CSLR had been prioritised with Cumbria County Council invited to submit a full application. An application was submitted in September 2018 requesting £102m of grant funding for the delivery of the CSLR supported by a further £10m of developer contributions forward funded by both Cumbria County Council and Carlisle City Council (at £5m each). This was based on the County Council's Outline Business Case which estimated the cost to be £113,000,000. The application was submitted with the City Council's support following consideration by Executive at their meeting of 20th August 2018. Following an intensive due diligence process by Homes England, it was announced in February 2019 that the HIF application was successful. In April 2019 a letter confirming the award of the grant was received.

- 1.5** Following extensive scheme development and public and stakeholder consultation across the past two years, a planning application was submitted for the CSLR in October 2019. The application is as yet undetermined with the County Council the determining authority given the application relates to public highways works.
- 1.6** The HIF funding requires that the monies be spent prior to March 31st 2024. The programme for the final stages of the development of the road and then its construction is according to the County Council achievable but is tight. This has consequently placed an increased emphasis on progressing the GDA as expediently as possible, with all parties having worked tirelessly to help achieve this. There is understandably a desire given the recent public health national emergency to be planning for economic recovery and in this regard the construction of the CSLR could have an even greater positive impact than that already envisaged, adding to the impetus to conclude the GDA without delay.

2. THE GRANT DETERMINATION AGREEMENT

- 2.1** For Cumbria County Council to be able to access and drawn down the grant funding to construct the CSLR, they, alongside Carlisle City Council, are required to enter into a Tripartite agreement with Homes England (on behalf of the Ministry of Housing, Communities and Local Government). Homes England's requirement for both Councils to be party to the agreement reflects the explicit link between the delivery of the CSLR and SCGV, material given that the funding is being provided to secure the new housing rather than for highways specific benefits.
- 2.2** The Grant Determination Agreement (GDA) has been developed in line with Heads of Terms following ongoing negotiations with Homes England over the past 12 months. The City Council have been party to these negotiations. In summary the purpose of the GDA is to set out the preconditions which must be met before the Grant can be drawn down, the procedures to be complied with at each stage of drawdown, the terms and conditions which must be complied with to ensure that the Grant is used for the purpose for which it is awarded and obligations on the City Council to facilitate the new housing which the grant is . It also sets out numerous ancillary obligations placed on the County and City Councils and the warranties that Homes England require from both Councils.
- 2.3** The GDA allocates different roles and responsibilities to the two Councils to align with their statutory powers and obligations as well as their roles in delivering the CSLR and the Garden Village. Cumbria County Council are referred to as the *Grant Recipient* whose obligations centre on the delivery of the CSLR within the permitted

timescales and funding provided. Carlisle City Council are referred to as the *Recovery Beneficiary*, a term that alludes to the City Council's role as lead authority for the delivery of the houses that HIF was designed to facilitate. This is to be achieved partly through the recovery of government's investment through developer contributions and enhanced quality standards, amongst other means.

Conditions Applicable to the City Council

- 2.4** Although not specified in such terms in the GDA, there are effectively three key phases to which the GDA is operational. The first phase sets out a sequenced approach to the release of funding for the scheme development phase, centred on a number of key conditions being reached in order to arrive to the point at which full funding for the construction phase is unlocked. The first phase will run to 31st October 2021. The second phase involves the construction of the CSLR. This phase will run from 1st November 2021 to 31st March 2024. The third and final phase is concerned with housing delivery which runs from start on site of the first development within the Garden Village, which is forecast to be February 2021 for the former Carleton Clinic site, to practical completion of the final development within the red line for St Cuthbert's.
- 2.5** Within the first phase, a number of these funding conditions relate to the planning of and delivery strategy for SCGV with responsibility for these resting with the City Council. Some of the conditions are required to have been discharged before the GDA can be signed, with those relating to the City Council being as follows:
- Cumbria CC to provide evidence confirming Carlisle City Council's obligation to pay a £5m contribution towards the cost of the scheme.;
 - Approval of the Council's Local Development Scheme – minutes to Executive provided as evidence 17th June 2019
- 2.6** Future conditions which will need to be discharged within the first phase to enable the full draw down of the funding and hence delivery of the road, responsibility for which will rest with the City Council, include:
- The submission to and approval by Homes England of an Interim Housing Delivery Statement by 31st December 2020 and a Final Housing Delivery Statement by 30th June 2021 – the purpose of both iterations of the Housing Delivery Statement is set out below. The conditions would be discharged via Homes England approving the submitted statements.

- Further analysis of the viability assessment to verify the land value assumptions and update of the financial appraisal accordingly. This is to be discharged via setting out an updated and refined development appraisal/viability assessment of the land value that supports the assumptions and evidence submitted in the HIF Bid. This viability information will be incorporated within the Interim Housing Delivery Statement, which will also need to identify the land value capture to support the delivery of St Cuthbert's Garden Village.
- The submission to the Planning Inspectorate of the SCGV Local Plan no later than March 2022 including provision of 20% affordable housing (as a minimum) – recognising the importance of the Local Plan in allocating land for development and hence facilitating housing delivery, to be discharged via providing, to Homes England, a copy of the St Cuthbert's Local Plan and evidence of Affordable Housing policy for SCGV at 20% minimum aggregated across the project.

Housing Delivery Statement

2.7 The role of the Housing Delivery Statement is to demonstrate to Homes England how the 10,325 new homes contained in the HIF bid will be delivered. Through discussion with HE the structure of Housing Delivery Statement was agreed at the outset of the GDA process. The key definition within the GDA is:

“Housing Delivery Statement means the statement for the housing delivery timetable including planning, site assembly, site marketing and profiling of Housing Output delivery as annexed at Annexure 3”

2.8 The purpose of the Housing Delivery Statement is to identify the various workstreams involved with delivery of SCGV and how those various workstreams will ultimately lead to the delivery of the Garden Village in line with the emerging masterplan and the commitments made within the HIF submission. It will also identify those areas where the City Council is confident that the market will deliver the new settlements and what measures are being taken to account for potential City Council or public sector partner intervention in the market, where the market is not delivering in line with expectations within the HIF bid.

2.9 It has been agreed with HE that the Housing Delivery Statement will be provided at three key stages that align with progress of the GDA, as set out above. The initial iteration, known as the Outline Housing Delivery Statement, has been submitted to Homes England for sign off. Importantly this approach recognises that with masterplanning, wider planning and work on the delivery strategy ongoing, it is not possible to present a definite way forward at this stage.

2.10 The Outline Housing Delivery Statement is appended to this report as Appendix 3.

Key Overarching Obligations

2.11 Beyond the above conditions, wider and key obligations upon the City Council arising from the GDA include:

- Committing a £5m funding contribution towards the scheme costs (agreed at Executive on 20th August 2018 and Council on 20th September 2018) – Cumbria County Council have similarly resolved to provide £5m.
- Facilitating the delivery of housing to help realise the desired 10,325 housing output – importantly the GDA recognises that in the absence of owning land within the area the City Council can only facilitate the delivery of the housing via proactive planning and the use, where appropriate, of other relevant powers.
- Monitoring and reporting housing completions across the anticipated build out of SCGV – the City Council already monitor housing activity and completions data for other statutory purposes and this is not therefore likely to place an undue burden on resources.
- Recovery proceeds – the value of the HIF investment is to be applied in investments in the site's wider infrastructure, and through enhanced design quality and other measures. Recovery is anticipated to be achieved through capturing the increase in land value attributable to the provision of the CSLR through developer contributions and enhanced standards within the Garden Village. Further detail on recovery is set out below in regard to the Recovery Strategy.
- Participation in evaluation surveys – as a recipient or beneficiary of grant funding, Local Authorities will be required to complete evaluation surveys, likely to involve completing short surveys and interviews with independent programme evaluators, to help the Government inform future programme and policy development. Developers may need to be involved as part of this. This is required throughout the life of the SCGV project.

Recovery Strategy

2.12 Homes England have also insisted that the GDA be accompanied by a Recovery Strategy upon which the City Council have led, with the scope again being agreed in advance with Homes England.

2.13 The need for the recovery strategy reflects that HIF funding is being invested in the Carlisle Southern Link Road to enable delivery of housing outputs in St Cuthbert's

Garden Village. Homes England understandably therefore need to be satisfied that in addition to the HIF investment in the new road, there will be local recovery of funds, defined as 'Recovery Proceeds' within the GDA, to ensure the delivery of the necessary enabling infrastructure within (or in close proximity) to St Cuthbert's itself e.g. schools, parks, community and other infrastructure. The term Recovery, as used in the GDA, can be misleading as it does not necessarily involve the receipt of cash, more the provision of wider infrastructure and quality standards through developer contributions, a process also referred to as land value capture. The Recovery Strategy details how the City Council and their partners at Cumbria County Council propose to achieve this, which is principally through the use of S106 agreements, Community Infrastructure Levy and other available land value capture mechanisms. Enhanced quality via increased design standards which will undoubtedly entail higher build costs also qualifies.

2.14 The Recovery Strategy demonstrates that the value of the HIF investment should be capable of being recovered and potentially significantly exceeded. It must be recognised however that the assessments within are based on initial and ongoing high level viability assessments, which will be refined over time as greater certainty is established on infrastructure needs and costs, as well as other costs. In this regard the strategy is exactly that i.e. a strategy, which again given the early stage of planning for St Cuthbert's is likely to evolve and be refined over time. There is no obligation to submit an updated recovery strategy in the future, however many of the matters it covers will be reported via future iterations of the Housing Delivery Statement.

2.15 The Recovery Strategy is appended to this report as Appendix 4.

3. SEPARATE CO-OPERATION AGREEMENT WITH CUMBRIA COUNTY COUNCIL

3.1 A separate Contribution Agreement between the City Council and Cumbria County Council is deemed necessary to provide evidence of a legal commitment to pay the £5m contribution to the cost of the CSLR and to help provide greater certainty on points of detailed implementation. This will cover for example monitoring and reporting of required information; the timing and process of paying the Council's £5m contribution; the approach to sharing developer contributions received to repay the £10m being forward funded by the two Councils; and the approach to any other relevant shared liabilities.

3.2 Importantly the Contribution Agreement will operate within the parameters of the overarching GDA and likely contain key cross references. Delegated authority to

enter into the separate Contribution Agreement is requested to enable the expedient progression of it, given neither Council is likely to sign the GDA until such time as the separate Contribution Agreement is in place and agreed.

4. RISKS

- 4.1** The County Council's OBC estimated the cost of the CSLR to be £112m but as the County Council have developed the design and sought further cost estimates the total cost estimate has increased to over £136m. Homes England has refused to increase the amount of the grant above £102m. The County Council are now looking to seek some cheaper options in the design to reduce the cost and how any shortfall could be met by them as any cost overruns will be their responsibility. To reduce the risk of the City Council paying its £5m contribution to the County Council and the CSLR not being completed it is intended that the Contribution Agreement will not oblige the City Council to pay the £5m until after a contract for the construction of the CSLR has been let and construction has started. Because of the need to drawdown funds under the GDA before 31st March 2024 it is likely that the County Council will only seek payment when it has drawdown grant funding is designed to help mitigate this risk, in so far as withholding the funding for the actual construction until there is adequate cost certainty in place, for example the point at which tenders from contractors have been submitted and evaluated. The City Council would work proactively with the County Council to help identify additional funding in the event of a cost overrun but ultimately it would be the responsibility of the County Council.
- 4.2** Homes England has agreed to fund the development phase of the CSLR up until October 2021, at a cost of approximately £19m, entirely at their own risk. At that point there is to be a review. Homes England will then decide whether the project can be delivered within budget and on time and if they decide it cannot then it can cancel the remainder of the funding. If Homes England agree to continue funding the terms and conditions are such that the County Council may become liable to pay Homes England back grant advanced after the October 2021 review, although the GDA does include provision to agree a condition extension and an appropriate remediation plan. Most of the terms and conditions during this period are ones imposed on the County Council regarding the progression of the road construction and its financing. The main condition beyond Oct 2021 the responsibility for which rests with the City Council, relates to the submission of the Local Plan.

Failure to adhere to obligations could result in default and clawback. This risk primarily falls on the County Council: the detailed negotiation of the documents is intended to ensure that the City Council's obligations are limited to matters within its

control (mainly relating to the progression of plans) and limiting its obligations so that it does not cause a default which requires the County Council to pay back any of the grant.

- 4.3** Recognised control over delivery of the homes does not rest with the City Council, mitigated however by the GDA recognising the limitation of our role to facilitate, albeit using all reasonable endeavours to do so.

5. CONSULTATION

- 5.1** Both the CSLR and SCGV have been subject to extensive and widespread public consultation. Excellent joint working between the authorities has sought to align engagement efforts, important given that much of the wider public understandably view the two projects as one.
- 5.2** With respect to the CSLR, upon which the County Council have led, there is a strong consensus of support for the road including for the preferred route alignment. Detailed reports of the findings of public consultation are published on the County Council's website. Opportunities have been taken to refine and improve the scheme in response to feedback forthcoming from consultation. Additional consultation on the CSLR was also forthcoming as a statutory part of the planning application process.
- 5.3** With respect to SCGV, progress to date has been underpinned by robust, extensive and innovative engagement with this having added clear value to the emerging draft and high-level proposals. This has included public engagement, dialogue with key stakeholders including infrastructure providers, dialogue and facilitated sessions with the local Parish Councils and with Members including via the dedicated Member Advisory Group which now also includes parish council representatives. The Council's Economic Growth Scrutiny Panel also continue to be engaged at key stages of the project including the evidence base upon which the project continues to be progressed.
- 5.4** Autumn 2019 saw extensive consultation on the three options for SCGV. A variety of methods of consultation were employed, including holding six drop-in events across the area and in the City Centre, a stakeholder workshop, an online virtual exhibition, an online and paper questionnaire, workshops with the parish councils in the area and a Design Review Panel. The outcomes from this phase of consultation have been carefully analysed and have helped to inform the emerging Preferred Option. A consultation feedback report has recently been completed and published

on the dedicated St Cuthbert's web pages. In addition, printed copies will be available for those who wish to access this information in a different way.

- 5.5** Further widespread consultation is planned on the draft masterplan framework for the site in the Summer of 2020 and on a draft of the St Cuthbert's Local Plan in late 2020.

6. CONCLUSION AND REASONS FOR RECOMMENDATIONS

- 6.1** Entering into the Grant Determination Agreement will secure the £102m of external grant funding investment that has been allocated from the Government's HIF programme to enable the construction of the Carlisle Southern Link Road. In addition to delivering widespread economic and social benefits, the new road also unlocks the full potential of St Cuthbert's Garden Village and the construction across the coming decades of up to 10,325 new homes alongside new employment opportunities.

- 6.2** Given the funding is ultimately to deliver new housing, the GDA requires the City Council, in their capacity as the local planning authority, to fulfil a number of obligations with the draw down of the funding explicitly linked to this. If the Council were to opt not to enter into the GDA, funding for the road would not be forthcoming and instead the Government would look to reallocate the earmarked £102m within the wider HIF programme. This latter scenario would represent a missed opportunity to lever in significant external grant funding to help support the economic growth and prosperity of Carlisle.

- 6.3** The requested delegated authorities will enable final revisions to be made to the final GDA and the separate cooperation agreement without unduly delaying proceedings, and are therefore in the interests of expediency. Should any material amendments be made to the draft GDA, or new significant issues of principle arise through the drafting of the separate cooperation agreement, the agreements would be referred back to the Executive.

7. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES

- 7.1** St Cuthbert's Garden Village, inclusive of the new Carlisle Southern Link Road, will have a significant influence in terms of shaping how Carlisle will grow and function long into the future. Accordingly, it will have a significant, direct and positive impact on a number of Carlisle Plan priorities including:

- *“supporting the growth of more high quality and sustainable business and employment opportunities”* – through identifying new sites for development and opportunities to better balance the local economy;

- *“addressing Carlisle’s current and future housing needs”* – through being the single largest development site and therefore contributor to supply across the latter stages of the current Local Plan period and much of the next one, including affordable and specialist housing;
- *“working more effectively with partners to achieve the City Council’s priorities”* – through recognition that the scale of the project requires the input, commitment, direct support and investment from a wide array of stakeholders and partner agencies.

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**Appendices
attached to report:**

Appendix 1 – Grant Determination Agreement

Appendix 2 – Contribution and Co-operation Agreement draft heads of terms

Appendix 3 - Housing Delivery Statement

Appendix 4 – Recovery Strategy

Note: in compliance with section 100d of the Local Government Act 1972 the report has been prepared in part from the following papers:

- **None**

CORPORATE IMPLICATIONS:

LEGAL – included in body of report.

PROPERTY SERVICES – The City Council has property interests at the western end of the proposed new road, Morton retail and employment sites. The new road has the potential to enhance the marketability of these assets as long as care is taken to enhance access and sight lines to these key development sites.

FINANCE – there is £5 million earmarked within the 2022/23 Capital Programme as the Council’s contribution committed towards the Housing Infrastructure Fund for the development of the Carlisle Southern Link Road as part of the St Cuthbert’s Garden Village project. It is envisaged that this sum, along with the £5 million committed by the County Council, will be recouped through developer contributions as the Garden Village is developed. The risks associated with the Grant Determination Agreement are clearly set out in the report, along with mitigating actions and individual responsibilities.

EQUALITY – none.

INFORMATION GOVERNANCE – there are no information governance implications with this report.



dated

2020

Homes England

and

Cumbria County Council

and

The Council of the City of Carlisle

**Housing Infrastructure Fund Grant Determination Agreement
(Forward Funding re Carlisle Southern Link Road)**

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Housing Infrastructure Grant Determination Agreement (Forward Funding)

dated 2020

Parties

- (1) **Homes England** (the trading name of Homes and Communities Agency), a body corporate under Section 1 of the Housing and Regeneration Act 2008 of One Friargate, Coventry CV1 2GN (including any statutory successor) (**Homes England**);
- (2) **Cumbria County Council** of 111 Botchergate, Carlisle, CA1 1RZ (the **Grant Recipient**); and
- (3) **The Council of the City of Carlisle** of Civic Centre, Rickergate, Carlisle CA3 8QG (the **Recovery Beneficiary**).

Introduction

- (A) Homes England is empowered under Section 19 of the HRA 2008 to make the HIF Funding available.
- (B) The HIF Funding provided under this Agreement is (at its date) made in compliance with the requirements set out in the European Commission's Decision of 20 December 2011 concerning public service compensation granted for Services of General Economic Interest (2012/21/EU).
- (C) Homes England entrusts the Grant Recipient with a public service obligation to carry out the Infrastructure Works as contemplated by this Agreement which may support and facilitate the provision of affordable homes in England for persons failed by market housing.
- (D) The Grant Recipient has submitted proposals to Homes England in respect of the proposed construction and/or delivery of the Infrastructure Works and the Recovery Beneficiary has submitted proposals in respect of the Housing Outputs and Homes England has agreed in principle to make HIF Funding available on terms which are in part set out in the Assurance Framework.
- (E) It is a condition precedent to Homes England to the provision of HIF Funding to the Grant Recipient that the Grant Recipient and Recovery Beneficiary enter into certain agreements which secure, amongst other things:
 - a. the delivery by the Grant Recipient of the Infrastructure Works;
 - b. the facilitation by the Recovery Beneficiary of the Housing Outputs; and
 - c. their wider respective roles and responsibilities to facilitate or contribute to the delivery of infrastructure and/or the future use of the various sites to facilitate an increase in the level of housing in Carlisle.

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- (F) This Agreement sets out the terms and conditions upon which specific amounts of HIF Funding will be advanced to the Grant Recipient by Homes England in relation to the outputs and interventions set out in this Agreement.

Agreed terms

1 **Definitions**

- 1.1 In this Agreement (including in the Introduction and Schedules) the following words and expressions have the following meanings:

Actual Infrastructure Expenditure means the Infrastructure Expenditure actually incurred by the Grant Recipient in delivering the Infrastructure Works;

Annual Forecast means a written forecast (in a form satisfactory to Homes England) provided by the Grant Recipient in respect of its projected delivery of the Infrastructure Works for the Financial Year in which it is supplied;

Annual Review Meeting means a Review Meeting held within the first Quarter in each Financial Year which is to occur after the Grant Recipient has provided the Annual Forecast for that Financial Year to Homes England;

Associated Person means in relation to the Grant Recipient, a person who performs or has performed services for or on the Grant Recipient's behalf;

Assurance Framework means the "Assurance Framework for the Housing Infrastructure Fund – Forward Funding" dated 24 September 2019 and appended at Annexure 6;

Availability Period means the period from the date of this Agreement until 31 March 2024 unless otherwise brought to an end pursuant to clause 2;

Balancing Sum means such sum as represents the amount by which the Public Sector Contribution exceeds the Actual Infrastructure Expenditure incurred by the Grant Recipient;

Base Interest Rate means the base rate of The Royal Bank of Scotland plc or such other rate as Homes England determines (acting reasonably);

Base Value means:

- (a) in relation to any part of the Site which is owned by the Grant Recipient or the Recovery Beneficiary as at the date of this Agreement, its Market Value (on the assumption that such land is valued according to its Existing Use Value) as set out in the Valuation delivered to Homes England by no later than the relevant Milestone Date; or
- (b) in relation to any part of the Site which is to be acquired by the Grant Recipient or the Recovery Beneficiary after the date of this Agreement, an amount equal to the lower of:
 - i the purchase price payable by the Grant Recipient or the Recovery Beneficiary as at the date of the relevant acquisition; or

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- ii 120% of its Market Value as at the date of the relevant acquisition;

Best Practice has the meaning ascribed to it in clause 18.8;

Bid means, the submission by the Grant Recipient of its proposal for the delivery of the Infrastructure Works and the delivery or facilitation of the Housing Outputs as more fully set out in:

- (a) the Expression of Interest submitted by the Grant Recipient to Homes England on [DATE] September 2017 ref HIF/FF/000156;
- (b) the Business Case Submission submitted by the Grant Recipient to Homes England on 22 October 2018 ref HIF/FF/000156/BC/01;
- (c) the MHCLG Confirmation of Award Letter dated 15 February 2019 (from Simon Ridley to Katherine Fairclough); and
- (d) the MHCLG Conditions Letter dated 4 April 2019 (from John McManus to Michael Barry);

Business Day means any day other than a Saturday, Sunday or statutory bank holiday in England;

CDM Regulations means the Construction (Design and Management) Regulations 2015;

CEDR means the Centre for Effective Dispute Resolution;

Certificate of Title means a certificate of title in relation to each Infrastructure Site in the form annexed at Annexure 7 (as such form may be updated by Homes England and notified to the Grant Recipient from time to time);

Claim means an application for drawdown of an instalment of HIF Funding;

Claim Form means a claim form substantially in the form of Schedule 3 or such other form as Homes England will notify the Grant Recipient from time to time;

Collateral Warranties means each collateral warranty in favour of Homes England from a Contractor or any member of the Professional Team (as required by Homes England) in a form satisfactory to Homes England;

Community Proceeds means the amount of all payments received by the Grant Recipient or the Recovery Beneficiary:

- (a) by way of community infrastructure levy,
- (b) by way of Section 106 contributions;
- (c) from the Developer; or
- (d) other contributions,

in each case to the extent the same are received by the Grant Recipient or the Recovery Beneficiary in relation to the Site and only to the extent the terms of such payment to the Grant Recipient and/or the Recovery Beneficiary permit their application in accordance with Clause 5.6;

Competent Authority means (as the case may be):

- (e) the EU Competent Authorities during such time as the United Kingdom remains a Member State of the European Union or it is otherwise bound to comply with such European Union treaty obligations regulations or other instruments concerning State Aid; or
- (f) the English Competent Authorities if the United Kingdom ceases to be a Member State of the European Union and it is not otherwise bound to comply with such European Union treaty obligations regulations or other instruments concerning State Aid;

Confidential Information means in respect of Homes England all information relating to Homes England or the existence or terms of this Agreement in respect of which the Grant Recipient becomes aware in its capacity as a party to the HIF Documents or which is received by the Grant Recipient in relation to this Agreement or any HIF Document from either Homes England or any of its advisers or from any third party if the information was obtained by that third party directly or indirectly from Homes England or any of its advisers in whatever form in either case (including information given orally and any document electronic file or other means of recording or representing information which includes derives or is copied from such information) and in the case of the Grant Recipient means such specific information as the Grant Recipient shall have identified to Homes England prior to the date hereof as confidential information for the purposes of this Agreement;

Consents means and includes any necessary approval, authorisation, consent, exemption, licence, permit, permission or registration by, of or from any governmental or other authority, the local planning authority, landlord, funder, adjoining land owner or any other person required to undertake the Infrastructure Works;

Contract means each contract entered into or to be entered into by the Grant Recipient or an Infrastructure Developer with a Contractor or Contractors for or in relation to the delivery of any part of the Infrastructure Works;

Contractor means, as the case may be, each contractor or other party (however described) engaged by or on behalf of the Grant Recipient or an Infrastructure Developer for the delivery of the Infrastructure Works;

Contribution Agreement means the agreement to be entered into between the Grant Recipient and the Recovery Beneficiary relating to the payment of the Recovery Beneficiary Contribution;;

Cost Overrun means at any time the amount by which:

- (a) the aggregate costs and expenses actually incurred by the Grant Recipient in relation to the Infrastructure Works exceed the Total Infrastructure Costs; or

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- (b) any individual item of expenditure in relation to the Infrastructure Works exceeds the amount set out in the Expenditure Forecast for that item;

CPO means one or more compulsory purchase orders that may be made by a local authority pursuant to Section 226 of the Town and Country Planning 1990 Act, Section 17 of the Housing Act 1985 and/or such other appropriate power of acquisition as the case may be to acquire the Infrastructure Site;

CPO Strategy means a plan for the proposed acquisition of any part of the Infrastructure Site by way of CPO (including details on expected timeframes) in a form satisfactory to Homes England;

Dangerous Substance means any natural or artificial substance (whether in the form of a solid, liquid, gas or vapour) the generation, transportation, storage, treatment, use or disposal of which (whether alone or in combination with any other substance) gives rise to a risk of causing harm to man or any other living organism or causing damage to the Environment or public health and includes, but is not limited to, any controlled, special, hazardous, toxic, radioactive or dangerous waste or substance;

Data Protection Legislation means all legislation and regulatory requirements in force from time to time relating to the use of personal data, including, without limitation (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK) and any formal guidance or Codes of Conduct issued by the Information Commissioner (or other competent authority) in each case as amended, superseded or replaced from time to time;

Data Subject has the meaning ascribed to it in the Data Protection Legislation;

Delivery Plan means a plan which sets out the stages in delivery of the Infrastructure Works as annexed at Schedule 8;

Direction means a direction by the Secretary of State under Section 15 of the Local Government Act 1999;

Disclosure Letter the disclosure letter from the Grant Recipient addressed to Homes England dated on or about the date of this Agreement relating to certain cost increases for the Infrastructure Works, in form and content acceptable to Homes England;

Disposal means a disposal of the whole or any part of:

- (a) the Infrastructure Site; and
- (b) any asset funded by HIF Funding pursuant to this Agreement;

EIR means the Environmental Information Regulations 2004, and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

EIR Exception means any applicable exemption to EIR;

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Encumbrance means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, standard security, assignation in security, bond and floating charge or other security interest of any kind, and any right of set-off, assignment, trust, flawed asset or other agreement or arrangement whatsoever for the purpose of providing security or having a similar effect to the provision of security;

English Competent Authorities means:

- (a) such persons officeholders and bodies (however constituted) that are specified under any United Kingdom Competition Requirement as having responsibility for monitoring compliance with and/or legally enforcing State Aid or United Kingdom Competition Requirements or otherwise authorised to recover any Unlawful State Aid;
- (b) the courts of England and Wales;

Environment means the environment as defined in section 1(2) of the Environmental Protection Act 1990;

Environmental Claim means any claim by any person:

- (a) in respect of losses or liabilities suffered or incurred by that person as a result of or in connection with any violation of Environmental Laws; or
- (b) that arises as a result of or in connection with Environmental Contamination and that could give rise to any remedy or penalty (whether interim or final) that may be enforced or assessed by private or public legal action or administrative order or proceedings;

Environmental Consents means all licences, authorisations, consents or permits of any kind under or relating to Environmental Laws;

Environmental Contamination means the following and the consequences thereof:

- (a) any release, emission, leakage or spillage at or from the Infrastructure Site by any person into any part of the Environment of any Dangerous Substance; or
- (b) any accident, fire, explosion or sudden event which adversely affects the Environment and which is attributable to the operations, management or control of the Infrastructure Site by any person including (without limitation) the storage, handling, labelling or disposal of Dangerous Substances;

Environmental Law means any common or statutory law, regulation, publicly available code of practice, circular or guidance note (if not having the force of law being of a kind that is customary for the relevant person (or persons of its status or type carrying on a similar business) to comply with) issued by any official body, concerning the protection of human health, the workplace or the Environment;

EU Competent Authorities means:

- (a) the Commission of the European Union;

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- (b) the Secretary of State if he is responding to a request from the Commission of the European Union;
- (c) a United Kingdom government department if it has competence and is responding to a request from the Commission of the European Union;
- (d) a court of England and Wales or the Court of Justice of the European Union;

Event of Default means a General Default or a Fundamental Default;

Exempted Information means any Information that is designated as falling or potentially falling within the FOIA Exemptions or the EIR Exceptions;

Existing Use Value shall have the meaning given to that term by the Royal Institute of Chartered Surveyors from time to time

Expenditure Forecast means the forecast set out in Annexure 2, comprising amongst other things a budget and cashflow of Infrastructure Expenditure as against the Delivery Plan and showing the proposed drawdowns of HIF Funding during each Financial Year within the Availability Period subject to such amendments variations or updates to the same which may be made with the consent of Homes England pursuant to clause;

Final Certificate means in relation to the Infrastructure Works a certificate provided by the Grant Recipient certifying that:

- (a) the Infrastructure Works have been constructed in accordance with the Infrastructure Details;
- (b) the Highways, sewers drains and other services ancillary to and reasonably necessary for the proper enjoyment of the Infrastructure Works have been completed commissioned and are ready for use; and
- (c) all planning conditions relating to the Infrastructure Site and the Infrastructure Works have been satisfied in accordance with the most up-to-date planning permission (to the satisfaction of Homes England);

Financial Year means from the date of this Agreement to the next 31 March and thereafter from 1 April to 31 March in each year until the expiry of the Term or earlier termination of this Agreement;

FOIA means the Freedom of Information Act 2000, and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

FOIA Authority/Authorities means a public authority as defined by FOIA and/or EIR;

FOIA Exemption means any applicable exemption to the FOIA;

Fundamental Default means the occurrence of any of the following:

- (a) a Report or Direction is made;

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- (b) the Grant Recipient, the Recovery Beneficiary or where applicable any Infrastructure Developer, Contractor, subcontractor, employee, officer or agent commits any Prohibited Act (in respect of which the Waiver Condition has not been satisfied);
- (c) there has been an act/omission on the part of the Grant Recipient, the Recovery Beneficiary or an Infrastructure Developer or any of its contractors (including Contractors) that in Homes England's opinion (using its absolute discretion) harms the reputation of Homes England, the Housing Infrastructure Funding Programme or to bring them into disrepute;

General Default means the occurrence of any of the following:

- (a) a Milestone Failure occurs or is in the opinion of Homes England (acting reasonably) likely to occur (having regard to the information supplied pursuant to clause 11 and 12) and such Milestone Failure is not the direct result of a Milestone Extension Event;
- (b) there has been an act/omission on the part of the Grant Recipient, the Recovery Beneficiary or a Developer or any of its contractors (including Contractors) that in Homes England's opinion (using its absolute discretion) has the potential to harm the reputation of Homes England, the Housing Infrastructure Funding Programme or to bring them into disrepute;
- (c) the Grant Recipient fails to perform and/or observe any obligation or restriction on it under any Infrastructure Related Document (to which it is a party) such that delivery of the Infrastructure Works in the opinion of Homes England (acting reasonably) is unlikely to be achieved in accordance with the requirements of this Agreement;
- (d) the Recovery Beneficiary fails to perform and/or observe any obligation or restriction on it under any Infrastructure Related Document (to which it is a party) such that delivery of the Infrastructure Works in the opinion of Homes England (acting reasonably) is unlikely to be achieved in accordance with the requirements of this Agreement
- (e) any representation or warranty made by the Grant Recipient pursuant to clause 3 is incorrect in any material respect when made or repeated;
- (f) any representation or warranty made by the Recovery Beneficiary pursuant to clause 3 is incorrect in any material respect when made or repeated;
- (g) any Consent is withdrawn or revoked, where such withdrawal or revocation is likely to have a Material Adverse Effect;
- (h) any Infrastructure Related Document is terminated without the prior consent of Homes England and such termination is likely in the opinion of Homes England (acting reasonably) to have a Material Adverse Effect;
- (i) the Grant Recipient fails to pay any sum due under a HIF Document on the due date for payment thereof provided that if Homes England is satisfied

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that such failure to pay any amount due hereunder is due solely to technical delays in the transmission of funds and such amount is paid within two (2) Business Days, this limb (i) will not apply for the purposes of this definition;

- (j) following the Review Date, Homes England (acting reasonably) considers (whether as a result of its due diligence or otherwise) that the Grant Recipient does not have sufficient funds or resources available to it to complete the Infrastructure Works in accordance with the Infrastructure Details;
- (k) a Disposal other than a Permitted Disposal has occurred without the prior consent of Homes England;
- (l) there is a breach of any of the conditions at clause 8.4;
- (m) clause 27.3 applies;
- (n) any other material breach by the Grant Recipient of any of its obligations under this Agreement has occurred;
- (o) the Final Certificate issued by the Grant Recipient's Section 151 Officer is inaccurate or misleading in any respect;
- (p) there is a failure by the Grant Recipient or the Recovery Beneficiary to apply Recovery Proceeds in accordance with clause 5.6;
- (q) there is a failure by the Grant Recipient to comply (or secure compliance) with a Remediation Plan where one is approved by Homes England pursuant to clause 13.2; or
- (r) Homes England determines (acting reasonably) that proper progress against the Grant Recipient's Delivery Plan has not been made by the Grant Recipient in delivering the Infrastructure Works;
- (s) the Grant Recipient fails to secure legal and beneficial ownership and vacant possession of the Infrastructure Site by [30 September 2021];

Good Industry Practice means that degree of skill, care, prudence and foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced contractor (engaged in the delivery of works or outputs of the same type as the Infrastructure Works or Housing Outputs (as applicable)) under the same or similar circumstances;

Grant Recipient Contribution means £5,000,000, payable at the times and in the manner set out in the Expenditure Forecast;

Grant Recipient Monitoring Report means the monitoring report to be prepared and delivered to Homes England by the Grant Recipient in accordance with clause 11.3.2;

Health and Safety Legislation means any applicable health and safety legislation, statutory instruments or regulations (including but not limited to the Health and Safety at Work etc. Act 1974) and any guidance and/or codes of practice relating to them;

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HIF Document means:

- (a) this Agreement;
- (b) any other document designated as such by the Grant Recipient and Homes England; and
- (c) any document entered into, pursuant to, or which amends or varies any document referred to in paragraphs (a) or (b) above;

HIF Funding means the funding made available or to be made available by Homes England to the Grant Recipient under this Agreement for the purposes of application towards Infrastructure Expenditure incurred or to be incurred by the Grant Recipient in delivering or procuring the delivery of the Infrastructure Works to facilitate the Housing Outputs;

Highways means roads, cycleways, footpaths, pavements, accessways, squares, courtyards, driveways, forecourts, entranceways and ancillary verges, landscaped areas, lighting, street furniture, drains, other utilities and associated works;

Historic Expenditure means Infrastructure Expenditure incurred:

- (a) between the date of submission of the Grant Recipient's expression of interest for the Housing Infrastructure Fund and the date hereof; and
- (b) which was specifically requested in the Bid for inclusion within the HIF Funding,

and which is an amount not exceeding £[4,248,285];

HMRC means Her Majesty's Revenue & Customs;

Homes England Senior Officer means the person notified as such by Homes England to the Grant Recipient;

Housing Delivery Statement means the statement for the housing delivery timetable including planning, site assembly, site marketing and profiling of Housing Output delivery as annexed at Annexure 3;

Housing Developer means any developer who enters into a contract with the Grant Beneficiary for the delivery of the Housing Outputs

Housing Outputs means the dwellings which are to be delivered or facilitated pursuant to the HIF Funding further details of which are set out at Schedule 2 (as the same may be amended from time to time in accordance with the terms of this Agreement);

Housing Output Target Dates means each date set out in Schedule 2 by which the relevant Housing Output Target should be achieved (as the same may be revised by Homes England in accordance with clause 9.3)

Housing Output Target means each stage in the delivery of the Housing Outputs identified in Schedule 2;

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Housing Sites means each area of land upon which the Housing Outputs will be situated as identified on the plan annexed at Annexure 5;

Housing Start on Site Date means the date identified in Schedule 2 on which:

- (a) a Housing Developer has taken possession of a Housing Site; and
- (b) the relevant Housing Start on Site Works on that Housing Site have commenced;

Housing Start on Site Works means:

- (a) excavation for strip or trench foundations or for pad footings;
- (b) digging out and preparation of ground for raft foundations;
- (c) vibroflotation, piling, boring for piles or pile driving; or
- (d) drainage works specific for the buildings on the relevant Housing Site;

HRA 2008 means the Housing and Regeneration Act 2008;

Increased Value means, in relation to any part of the Site, the Market Value of that part of the Site on the assumptions that planning permission for the Infrastructure Works and/or the Housing Outputs (as applicable) relevant to that Site (or part thereof) have been obtained and the Infrastructure Works have been completed;

Information means:

- (a) in relation to the FOIA has the meaning given under section 84 of the FOIA and which is held by Homes England at the time of receipt of an RFI; and
- (b) in relation to the EIR has the meaning given under the definition of "environmental information" in section 2 of the EIR and which is held by Homes England at the time of receipt of an RFI;

Information Commissioner has the meaning set out in section 114 of the Data Protection Act 2018 and for the avoidance of doubt is the UK's independent body set up to uphold and enforce information rights;

Infrastructure Details means information:

- (a) provided by the Grant Recipient in relation to the Infrastructure Works, which shall include:
 - i the descriptive and other details in respect of the Infrastructure Works as set out in Schedule 1;
 - ii the Delivery Plan;
 - iii the Expenditure Forecast;

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- iv the Management Plan;
 - v Milestone Dates;
 - vi all Consents which are available;
 - vii the proposed timing of all drawdowns of HIF Funding and any other funding sources; and
- (b) provided by the Recovery Beneficiary in relation to the Housing Outputs to be facilitated by the delivery of the Infrastructure Works and the projected dates for their achievement,

all in accordance with the Bid and each as varied from time to time in accordance with the terms of this Agreement;

Infrastructure Developer means any developer who enters into a contract with the Grant Recipient for the delivery of the Infrastructure Works;

Infrastructure Expenditure means the costs of delivering the Infrastructure Works as set out in the Expenditure Forecast which Homes England is satisfied either have been or will be reasonably and properly incurred by the Grant Recipient in delivering the Infrastructure Works and where any costs relate to both construction works and professional fees (including design) then the maximum proportion of HIF Funding which can be claimed in relation to professional fees shall be included in the Infrastructure Expenditure (such proportion to be determined by Homes England);

Infrastructure Milestones means the stages in the delivery of the Infrastructure Works set out in Schedule 1 as may be extended from time to time pursuant to clause 9.2 or clause 9.3;

Infrastructure Related Documents means

- (a) Contracts;
- (b) Collateral Warranties;
- (c) drawings, plans and specifications;
- (d) planning permissions required for the Infrastructure Works and the provision of the Housing Outputs and all compulsory purchase orders, road closures and approvals of reserved matters or details provided pursuant to them and all other licences and approvals under any applicable planning legislation or regulations, the building and fire regulations and any other statute or bylaw of any relevant authority which are necessary to carry out and complete the Infrastructure Works [and the Housing Outputs];
- (e) any guarantees, warranties and representations given or made by and any rights or remedies against all or any of the valuers, professional advisers, contractors or sub-contractors or manufacturers, suppliers and installers of any fixtures;

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- (f) rights and claims to which the Grant Recipient or a Developer is now or may hereafter become entitled in relation to the Infrastructure Works;
- (g) other grant agreements relating to the funding of Infrastructure Works; and
- (h) the Contribution Agreement;

and any other document the parties agree in writing from time to time will be designated as an Infrastructure Related Document;

Infrastructure Site means the land upon which the Infrastructure Works are to be constructed as identified on the plan annexed at Annexure 4;

Infrastructure Start on Site means the date on which all pre-planning conditions have been satisfied and the Grant Recipient or the Infrastructure Developer, as applicable has control of the Infrastructure Site to enable the Infrastructure Works to commence;

Infrastructure Start on Site Date means the date or dates identified in Schedule 1 on which Infrastructure Start on Site is to have occurred;¹

Infrastructure Works means construction of the Carlisle Southern Link Road and the outputs described in the Infrastructure Details together with associated infrastructure and any other construction on the Infrastructure Site in respect of which Homes England has agreed to provide the HIF Funding in accordance with this Agreement (as such Infrastructure Works may be varied from time to time with the prior written consent of Homes England);

Infrastructure Works Practical Completion means completion of the Infrastructure Works in accordance with the definition of "Practical Completion" (or equivalent) in the relevant Contract(s);

Infrastructure Works Practical Completion Date means the date set out in Schedule 1 whereby Infrastructure Works Practical Completion must be achieved;

Intellectual Property Rights shall include without limitation all rights to, and any interests in, any patents, designs, trademarks, copyright, know-how, trade secrets and any other proprietary rights or forms of intellectual property (protectable by registration or not) in respect of any technology, concept, idea, data, program or other software (including source and object codes), specification, plan, drawing, schedule, minutes, correspondence, scheme, formula, programme, design, system, process logo, mark, style, or other matter or thing, existing or conceived, used, developed or produced by any person;

Interest means interest accruing on the relevant amount at the Base Interest Rate from the date of receipt by the Grant Recipient of that amount up to and excluding the date of payment by the Grant Recipient to Homes England;

Land Value Increase means, in relation to a part of the Site, the amount by which the Increased Value exceeds the Base Value for that part of the Site provided always that if,

¹ This has been drafted to take into account there may be multiple Start on Site Dates for the various elements of a project

following any Valuation, the Land Value Increase is negative, the Land Value Increase shall be deemed to be zero;

Law means any applicable law, Legislation, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate Legislation or notice of any Regulatory Body

Legal Opinion means a legal opinion in the form set out in Schedule 4 given by the Grant Recipient's Solicitor;

Legislation means:

- (a) any Act of Parliament;
 - (b) any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978;
 - (c) any exercise of the Royal Prerogative;
 - (d) any enforceable community right within the meaning of section 2 of the European Communities Act 1972;
- in each case in the United Kingdom; and
- (e) any regulations, orders, by-laws or codes of practice of any local or statutory or competent authority having jurisdiction over the territory in which the Infrastructure Works are situated.

Management Plan each detailed plan prepared from time to time by the Grant Recipient, and approved by its cabinet and/or Section 151 Officer, setting out all actual, identified and anticipated Cost Overruns and setting out (in such detail as Homes England may reasonably require) how each such Cost Overrun will be mitigated, managed and/or funded, including as updated prior to the Review Date;

Market Value means the valuation of a property's market value, determined by a Chartered Surveyor who is a registered Valuer, in accordance with the guidance set out in the Red Book;

Material Adverse Effect means any present or future event or circumstances which could, in the opinion of Homes England (using its absolute discretion):

- (a) materially impair the ability of the Grant Recipient to perform and comply with its obligations under any HIF Document or Infrastructure Related Document;
- (b) materially or adversely affect the assets or financial condition of the Grant Recipient; or
- (c) materially impair the validity or enforceability of, or the effectiveness or ranking of any HIF Document or any security granted or purporting to be granted pursuant to any HIF Document or the rights or remedies of Homes England under any HIF Document or Infrastructure Related Document;

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Maximum Sum means the sum identified in Schedule 1 being the maximum amount of HIF Funding to be provided by Homes England to the Grant Recipient under this Agreement;

Milestones means the Infrastructure Milestones;

Milestone Date means each date set out in Schedule 1 by which the relevant Milestone must have been achieved (as the same may be revised by Homes England in accordance with clause 9.3) otherwise a General Default will occur;

Milestone Extension Events means any of the following:

- (a) exceptionally adverse weather conditions provided that any extension permitted on this ground will be restricted to the number of days for which the adverse weather continued;
- (b) the exercise after the date of this Agreement by the United Kingdom Government of any statutory power which directly affects the execution of the Infrastructure Works by restricting the availability or use of labour which is essential to the proper carrying out of the Infrastructure Works or preventing the Grant Recipient or an Infrastructure Developer from, or delaying in, securing such goods or materials or such fuel or energy as are essential to the proper carrying out of the Infrastructure Works;
- (c) the use or threat of terrorism and/or the activity of the relevant authorities in dealing with such use or threat;
- (d) fire, explosion, lightning, storm, tempest, flood, bursting or overflowing of water tanks, apparatus or pipes, ionising radiation, earthquakes, riot and civil commotion;
- (e) failure by any statutory undertaker, utility company or other like body to carry out works or provide services which the Grant Recipient or the Infrastructure Developer has taken all reasonable steps open to it to procure and expedite;
- (f) any failure or major shortage of power, fuel or transport;
- (g) any blockade or embargo;
- (h) any:
 - i official or unofficial strike;
 - ii lockout;
 - iii go-slow; or
 - iv other dispute,generally affecting the construction industry or a significant sector of it or an Infrastructure Developer engaged in the delivery of the Infrastructure Works to a material extent;

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- (i) the exercise after the date of this Agreement by the United Kingdom Government (excluding for the avoidance of doubt, the Grant Recipient) of any statutory power which directly affects the Grant Recipient's obligations under this Agreement;
- (j) any reasonable delays in a statutory planning process (including compulsory purchases and planning permission applications); or
- (k) any impediment, prevention or default, whether by act or omission by Homes England except to the extent caused or contributed to by any default, whether by act or omission, of the Grant Recipient.

Unless:

- (a) any of the events arises (directly or indirectly) as a result of any wilful default or wilful act or negligent act of the Grant Recipient, any Contractor or an Infrastructure Developer; or
- (b) in respect of the event referred to in (e) above, such event arises as a result of any failure by the Grant Recipient or the Infrastructure Developer (whether wilful or otherwise) to notify the relevant statutory undertaker or utility company of the requirement for works or services to be completed by the date required to enable the relevant Milestone to be achieved.

Milestone Failure means a failure by the Grant Recipient to achieve any Milestone by the relevant Milestone Date;

Monitoring Report has means a Grant Recipient Monitoring Report or a Recovery Beneficiary Monitoring Report;

Monitoring Surveyor means such suitably qualified monitoring surveyor as may be approved by Homes England and appointed by the Grant Recipient on terms satisfactory to Homes England pursuant to clause 7.6.7;

Notifiable Event means an event of the type described in clause 11.1;

Open Book means the transparent and full disclosure of information to be undertaken in utmost good faith and to include the declaration of all information which the Grant Recipient is required to maintain keep or disclose under this Agreement and any other financial components such as price, profit margins, central office overheads, site overheads, preliminaries, contingencies and the cost of all materials, goods, equipment, work and service, apportionments of these items with all and any books of accounts, correspondence, agreements, orders, invoices, receipts and other documents available for inspection;

Permitted Disposal means:

- (a) any disposal expressly contemplated in this Agreement; and/or
- (b) the disposal of part or parts of the Site upon which an electricity sub-station, gas generation or pumping station or other statutory services or infrastructure have been or are to be constructed or installed and the immediate curtilage of the same together with ancillary easements; and/or

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- (c) disposals made pursuant to a planning obligation pursuant to section 106 of the Town & Country Planning Act 1990 or the Local Government (Miscellaneous Provisions) Act 1982 or section 33 and/or the Local Government Act 1972 section 111 and the Highways Act 1980 section (s) 38 and/or 278;
- (d) and any other disposal which Homes England agrees from time to time will become a Permitted Disposal;

Permitted Encumbrance means:

- (a) any lien arising solely by operation of Law in the ordinary course of the Grant Recipient's business in respect of any obligation which is not more than thirty (30) days overdue for settlement;
- (b) any Encumbrance arising out of title retention provisions in a supplier's standard conditions of supply in respect of goods supplied to the Grant Recipient in the ordinary course of its business;
- (c) any Encumbrance created pursuant to this Agreement; and
- (d) any Encumbrance granted with the prior written consent of Homes England;

Personal Data has the meaning ascribed to it in the Data Protection Legislation;

Planning Performance Agreement means each agreement entered into between the Recovery Beneficiary (in its capacity as the local planning authority) and each Housing Developer, together with associated stakeholders (as applicable) in relation to the project management of a planning application for the Housing Output;

Practical Completion means as the context requires:

- (a) in relation to the Infrastructure Works, Infrastructure Works Practical Completion; and
- (b) in relation to the Housing Outputs, the meaning ascribed to "Practical Completion" (or term with equivalent effect) in the relevant Contract;

Pre Commencement Conditions means the conditions set out in Schedule 7;

Preliminary Costs means [the 'Pre-Contract Tranche', 'Tranche 1' and 'Tranche 2'] as set out in the Expenditure Forecast [and marked as "Preliminary Costs" to be] incurred by the Grant Recipient prior to satisfaction of clause 4.3 up to an aggregate maximum of £[]²;

Process has the meaning ascribed to it in the Data Protection Legislation and **Processing** shall be construed accordingly;

² Homes England to confirm

Procurement Law means (as the case may be):

- (a) prior to the date on which the United Kingdom ceases to be a Member State of the European Union all applicable United Kingdom and European Union procurement Legislation and any implementing measures including European Union Directives 2014/23/EU (on the award of concession contracts) and 2014/24/EU (on Public Procurement); the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016 insofar as the same are applicable; and
- (b) on or after the date the United Kingdom ceases to be a Member State of the European Union the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016 (insofar as the same are applicable) together with any statutory modification or replacement regulations or Legislation on procurement by public bodies;

Professional Team means the Infrastructure Developer, any architect, any civil engineer and any other consultant or advisor with a design or supervisory responsibility for the Infrastructure Works appointed or engaged by the Grant Recipient or an Infrastructure Developer in connection with the Infrastructure Works;

Prohibited Act means:

- (a) offering, giving or agreeing to give to any servant of Homes England any gift or consideration of any kind as an inducement or reward:
 - i for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of a HIF Document; or
 - ii for showing or not showing favour or disfavour to any person in relation to a HIF Document;
- (b) entering into a HIF Document in connection with which commission has been paid or has been agreed to be paid by the Grant Recipient or on its behalf, or to its knowledge, unless before the relevant agreement is entered into particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed to Homes England;
- (c) committing any offence:
 - i under legislation creating offences in respect of fraudulent acts;
 - ii at common law in respect of fraudulent acts in relation to this Agreement; or
 - iii under the Bribery Act 2010; or
- (d) defrauding or attempting to defraud or conspiring to defraud Homes England;

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Public Sector Financial Assistance means any funding (received or receivable by the Grant Recipient or the Recovery Beneficiary) to finance any part of the Infrastructure Works or Housing Outputs from public sector bodies including but not limited to funding by Homes England (other than the HIF Funding), funding from the European Commission, government bodies (whether national or local) or bodies in receipt of lottery funds from the National Lottery Distribution Fund pursuant to the National Lotteries Act 1993 and 1998;

Public Sector Contribution means any funding (excluding the Grant Recipient Contribution) received or receivable by the Grant Recipient or an Infrastructure Developer to finance any part of the Infrastructure Works or Housing Outputs from public sector bodies including but not limited to funding by Homes England (including HIF Funding), funding from the European Commission, government bodies (whether national or local) or bodies in receipt of lottery funds from the National Lottery Distribution Fund pursuant to the National Lotteries Act 1993 and 1998;

Quarter Date means 31 March, 30 June, 30 September and 31 December;

Recovery Beneficiary Contribution means £5,000,000, payable at the times and in the manner set out in the Expenditure Forecast;

Recovery Beneficiary Monitoring Report means the monitoring report to be prepared and delivered to Homes England by the Recovery Beneficiary in accordance with clause 11.3.3;

Recovery Proceeds means:

- (e) without double counting of any amount received under paragraph (c) below, any consideration received by the Grant Recipient or the Recovery Beneficiary in relation to any disposal of a part or whole of the Site;
- (f) Community Proceeds;
- (g) without double counting of any amount received under paragraph (a) above, an amount equal to each Land Value Increase;
- (h) without double counting of any amount received under paragraph (a) or (b) above, the amount of borrowings raised against any Land Value Increase or
- (i) means the proceeds of a claim against
 - i any landowner from whom the Site (or any part thereof) has been acquired;
 - ii the provider of any due diligence report (in its capacity as provider of the same) in connection with the acquisition, development or financing of the Site, the Infrastructure Works and/or the Housing Output; or
 - iii any member of the Professional Team or any other contractor, consultant or professional engaged in relation to the Infrastructure Works or Housing Output;

Red Book means the "Red Book" (The RICS Valuation Standards - Global and UK, 7th edition), which is the code of practice and guidance for all members of the Royal Institution of Chartered Surveyors;

Regulatory Body means government departments or regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of Homes England;

Remediation Plan means the plan described in clause 13.2.1;

Report means a report under Section 114(3) or Section 114A of the Local Government Finance Act 1988 or Section 5 of the Local Government and Housing Act 1989;

Request for Information/RFI shall have the meaning set out in the FOIA or any request for information under EIR which may relate to the Infrastructure Works or the Housing Outputs, any HIF Document or any activities or business of Homes England;

Required Standards means the requirements of this Agreement, Good Industry Practice, all Consents, Legislation and unless otherwise agreed with Homes England, the requirements of the relevant local authority's Development Plan (as defined in section 39 of the Planning and Compulsory Purchase Act 2004);

Retention means a cost or expense referred to in the Expenditure Forecast and payable under an Infrastructure Related Document on or after Practical Completion;

Review Date means [25] October 2021;

Review Meeting means a meeting of the type described in clause 11.3;

RIDDOR means Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (as amended from time to time);

Section 151 Officer means an officer of the Grant Recipient appointed under section 151 of the Local Government Act 1972;

Security means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect (such as sale or lease and leaseback effected for such purpose, a blocked account, set-off or similar 'flawed asset' arrangement);

Site means the Infrastructure Site and the Housing Sites;

Solicitors means a firm of solicitors approved by Homes England (acting reasonably and having regard, inter alia, to the number of partners, relevant experience and professional indemnity cover of any proposed firm) from time to time;

Special Contractual Provisions means the conditions set out in Schedule 6;

State Aid means (as the case may be):

- (a) any aid granted by a Member State of the European Union or through the resources of such Member State in any form whatsoever which distorts or threatens to distort competition by favouring a particular undertaking or the production of certain goods, in so far as such aid affects trade between European Union Member States; or
- (b) any aid benefit or advantage (which includes but is not limited to assets, rates, funds and land) granted by or through a public sector body which is subject to any United Kingdom Competition Requirements;

State Aid Confirmation means written confirmation from a firm of reputable solicitors with expertise in State Aid Law that (at the time at which such confirmation is given) the terms of the State Aid Opinion remain valid and correct;

State Aid Law means [TBC];

State Aid Opinion means the opinion as to the State Aid treatment of the Infrastructure Works provided pursuant to the Pre Commencement Conditions;

Tax means any tax, levy, impost, duty or other charge or withholdings and any charges of a similar nature, together with interest thereon and penalties with respect thereto, if any, and any payments made on or in respect thereof and Taxation or taxation and Taxes or taxes shall be construed accordingly;

Term means the period of time from the date hereof until 30 June 2049 subject to earlier termination by Homes England of the entirety of this Agreement;

Total Infrastructure Costs means, if all costs in relation to the Infrastructure Works:

- (a) have been incurred, the aggregate of such costs; and
- (b) have not yet been incurred, the actual and forecasted value (as relevant) of the aggregate of such costs

each as such costs are identified in the Expenditure Forecast;

Undrawn Amount means such part of the Maximum Sum as has not been paid to the Grant Recipient under this Agreement;

United Kingdom Competition Requirement means any Legislation which:

- (a) is in force and/or in effect and/or applies (in England) on or after the date the United Kingdom ceases to be a Member State of the European Union; and
- (b) which regulates any aid funding assets or advantage granted or directed by a public sector body to the extent that the same has the ability to threaten to or actually distort either competition or an economic market in the United Kingdom and/or in any part of the European Economic Area and/or in any other country or countries;

Unlawful State Aid means (as the case may be):

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- (a) State Aid which has been granted in contravention of Article 108(3) Treaty of the Functioning of the European Union (**TFEU**), does not benefit from an exemption from notification and has not been approved by a decision of the European Commission under Article 107(2) or (3) TFEU;
- (b) State Aid which has been granted after the United Kingdom ceases to be a Member State of the European Union to the extent that the same is granted contrary to or is an infringement of any United Kingdom Competition Requirement;

Valuer means such reputable firm of surveyors as is a member of the Royal Institute of Chartered Surveyors as may be appointed by the Grant Recipient and approved by Homes England;

VAT means Value Added Tax as presently charged under the Value Added Tax Act 1994 or any tax of similar nature; and

Waiver Condition means provision of satisfactory evidence by the Grant Recipient to Homes England that the relevant Prohibited Act was committed by:

- (a) an employee acting independently of the Grant Recipient and such employee's employment is terminated within twenty (20) Business Days of Homes England serving notice on the Grant Recipient of such Prohibited Act; or
- (b) a Contractor (or any employee of a Contractor not acting independently of the Contractor) or a Developer (or any employee of a Developer not acting independently of the Developer) and the relevant Infrastructure Related Document is terminated within twenty (20) Business Days of Homes England serving notice on the Grant Recipient of such Prohibited Act; or
- (c) an employee of a Developer or a Contractor acting independently of such Contractor and such employee's employment is terminated within twenty (20) Business Days of Homes England serving notice on the Grant Recipient of such Prohibited Act; or
- (d) any person not specified in paragraphs (a), (b) or (c) and the Grant Recipient (or any Contractor or a Developer) has severed links with such person (whether his employment, appointment or any other link) within twenty (20) Business Days of Homes England serving notice on the Grant Recipient of such Prohibited Act

where acting independently means not acting with the authority or knowledge of any one or more of the directors of the Grant Recipient or the Developer or relevant Contractor.

1.2 Interpretation

1.2.1 The masculine includes the feminine and vice versa.

1.2.2 The singular includes the plural and vice versa.

- 1.2.3 Any reference in this Agreement to any condition, sub-condition, paragraph, Schedule, Annexure or section heading is, except where it is expressly stated to the contrary, a reference to such condition, sub-condition, paragraph, Schedule, Annexure or section heading of this Agreement.
- 1.2.4 Any reference to this Agreement or to any other document shall include (except where expressly stated otherwise) any variation, amendment or supplement to such document to the extent that such variation, amendment or supplement is not prohibited under the terms of this Agreement.
- 1.2.5 Any reference to any enactment, order, regulation, determination or similar instrument shall (except where expressly stated otherwise) be construed as a reference to the enactment, order, regulation, determination or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted.
- 1.2.6 A reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees.
- 1.2.7 Headings are for convenience of reference only.
- 1.2.8 A time of day shall be a reference to London time.
- 1.2.9 A party means a party to this Agreement.
- 1.2.10 The words includes or including are to be construed without limitation.
- 1.2.11 A document in the agreed form is to be the form of the relevant document agreed between the parties and for the purpose of identification initialled by each of them or on their behalf (in each case with such amendments as may be agreed by or on behalf of the parties) or in the form set out in a Schedule to this Agreement.
- 1.2.12 A paragraph in a Schedule shall be construed as references to a paragraph in that particular Schedule.
- 1.2.13 A deliberate act or omission of any person shall exclude acts or omissions which were within the contemplation of the parties or which were otherwise provided for in this Agreement.
- 1.2.14 In any case where the consent or approval of Homes England (or any officer of Homes England) is required or a notice is to be given by or to Homes England, such consent or approval or notice shall only be validly given if it is in writing and signed by (if relevant) the officer stipulated in this Agreement or such other person as may be specified to the other parties from time to time. Any consent, approval or refusal to consent or approve should be issued within a reasonable time frame.
- 1.2.15 An obligation to do anything includes an obligation to procure its being done.
- 1.2.16 Any restriction includes an obligation not to permit infringement of the restriction.
- 1.2.17 The terms Housing Site and Infrastructure Site include each and every part of such site and estate or interest in it.

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- 1.2.18 If there is any ambiguity or conflict between the implied terms and the express terms of this Agreement then the express terms shall prevail.
- 1.2.19 No review comment or approval by Homes England under the provisions of this Agreement shall operate to exclude or limit the Grant Recipient's obligations or liabilities under this Agreement save where Homes England have confirmed the said review comment or approval in writing.
- 1.2.20 The Grant Recipient shall be responsible as against Homes England for the acts or omissions of any Infrastructure Developer as if they were the acts or omissions of the Grant Recipient.
- 1.2.21 Neither the giving of any approval, consent, examination, acknowledgement, knowledge of the terms of any agreement or document nor the review of any document or course of action by or on behalf of Homes England shall, unless otherwise expressly stated in this Agreement or agreed in writing by Homes England, relieve the Grant Recipient of any of its obligations under any HIF Document or any of the Infrastructure Related Documents or of any duty which it may have hereunder to ensure the correctness, accuracy or suitability of the matter or thing which is the subject of the approval, consent, examination, acknowledgement or knowledge nor confer impose or imply any liability or responsibility on or on behalf of Homes England in respect of or in connection with the matter to or in relation to which such approval consent examination acknowledgement was given or review made.
- 1.2.22 Save where a contrary intention is shown or where an express discretion is given by this Agreement, Homes England will act in a reasonable manner in deciding whether to give any consent, agreement, determination or approval or express its satisfaction and whether to give any such consent, agreement, determination or approval or express its satisfaction subject to restrictions, terms or conditions unless in each case to do so would fetter its statutory powers, rights or obligations.

2 Provision of HIF Funding

- 2.1 Homes England (in exercise of its powers under section 19 of the HRA 2008) agrees to make available to the Grant Recipient, during the Availability Period, HIF Funding in an aggregate principal amount equal to the Maximum Sum on the terms set out in this Agreement.
- 2.2 The Grant Recipient acknowledges and agrees that the Maximum Sum may be reduced by Homes England:
- 2.2.1 in the exercise of its rights under this Agreement; or
- 2.2.2 to accommodate factors such as (but without limitation):
- (a) changes to the Infrastructure Details;
 - (b) variations arising out of the operation of clause 9.2;

- (c) changes to the Infrastructure Works or the Housing Outputs agreed between the parties; or
- (d) increases in income or other sources of financial assistance becoming available to the Grant Recipient or a Developer in relation to the delivery of the Infrastructure Works;

2.3 The Availability Period will come to an end in relation to all Undrawn Amounts on termination of this Agreement.

2.4 The Grant Recipient acknowledges and agrees that Homes England's obligation to provide the HIF Funding is at all times subject to Homes England receiving any approvals Homes England may require (whether internally or from central Government).

3 **Review**

3.1 The Grant Recipient and Homes England acknowledge that, as at the date of this Agreement, the Total Infrastructure Cost is expected to be met by the commitments set out in the Expenditure Plan, together with the application of Cost Savings, Recovery Proceeds and any additional funding which the Grant Recipient may obtain after the date of this Agreement.

3.2 By no later than the earlier of the relevant Milestone Date set out in Schedule 1 or 10 Business Days prior to the Review Date, the Grant Recipient and (where relevant) the Recovery Beneficiary shall supply updated copies of each document comprising the Infrastructure Details (together with such other documents and information as Homes England may reasonable request) in each case, setting out any changes to the equivalent document delivered as at the date of this Agreement.

3.3 If, by the Review Date, Homes England reasonably considers that:

- 3.3.1 the Grant Recipient will not have sufficient funding to complete the Infrastructure Works;
- 3.3.2 the Infrastructure Works Practical Completion cannot be completed by the Infrastructure Works Practical Completion Date,

Homes England may [by giving the Grant Recipient not less than 5 Business Days' notice in writing]:

- (a) terminate this Agreement in its entirety;
- (b) withhold and cancel any further payment of HIF Funding due to the Grant Recipient under this Agreement; and/or
- (c) reallocate or redirect such part of the HIF Funding (which has not yet been paid to the Grant Recipient) to such other person or for such purpose as Homes England in its discretion considers appropriate.

4 Representations and warranties

As at the date of this Agreement, on the date of each Claim and the date of each Monitoring Report (by reference to the facts and circumstances then existing):

- 4.1 the Grant Recipient makes the representations and warranties set out in Part 1 of Schedule 5 to Homes England; and
- 4.2 the Recovery Beneficiary makes the representations and warranties set out in Part 2 of Schedule 5 to Homes England.

5 Payment of HIF Funding

5.1 Initial conditions precedent

Homes England's obligations under this Agreement are subject to the condition precedent that it has conducted due diligence (including financial and legal due diligence) satisfactory to it in relation to the Infrastructure Works and has confirmed to the Grant Recipient that the Pre Commencement Conditions have been satisfied or waived.

5.2 Conditions Precedent to each Claim for HIF Funding in respect of Preliminary Costs

The obligation of Homes England to make available HIF Funding in relation to Preliminary Costs and Historic Expenditure (without double counting) is subject to the further conditions precedent that, at or before the time of a Claim and at or before the time Homes England pays HIF Funding that it has or confirmed to the Grant Recipient that it has received evidence from the Section 151 Officer that the Grant Recipient has incurred the costs relating to the Claim (in a form satisfactory to Homes England) and such costs form part of the Preliminary Costs and relate to the Infrastructure Works in whole or in part.

5.3 Conditions Precedent to each Claim for HIF Funding

5.3.1 The obligation of Homes England to make available any HIF Funding (other than in respect of Preliminary Costs and Historic Expenditure) is subject to the further conditions precedent that, at or (in the case of the matters set out in sub-paragraphs (b), (f), (g) and (j)) before the time of a Claim and at or (in the case of the matters set out in such sub-paragraphs) before the time Homes England pays HIF Funding that it has or (in the case of the matters set out in sub-paragraphs (c), (g), and (n)) the Monitoring Surveyor has, confirmed to the Grant Recipient that it or the Monitoring Surveyor (as applicable) has received all of the following in form and substance satisfactory to Homes England:

- (a) evidence from the Section 151 Officer that the Grant Recipient has (and at all times after the Review Date continues to have) sufficient funds (in addition to the HIF Funding and the Recovery Beneficiary Contribution) whether from its own resources or otherwise to complete the Infrastructure Works;
- (b) each Infrastructure Related Document executed by the Grant Recipient and all other relevant parties as is then required to deliver such part of the Infrastructure Works which form the subject of the Claim;

- (c) evidence of the Infrastructure Developer's capability, capacity and resourcing to be able to deliver the Infrastructure Works by the Infrastructure Works Practical Completion Date;
- (d) a valid Claim made in accordance with clause 5.3.2(d);
- (e) the amount of the Claim is in accordance with the Expenditure Forecast, as determined by Homes England in its absolute discretion;
- (f) unless otherwise agreed with Homes England, a copy of the grant of detailed planning permission satisfactory to Homes England (acting reasonably) including approval of siting, design, access and use, landscaping and materials for the whole of the Infrastructure Works³;
- (g) copies of policies, certificates or cover notes relating to each contract or policy of insurance taken out by or on behalf of the Grant Recipient in respect the Infrastructure Works have been provided;
- (h) the Contribution Agreement;
- (i) such evidence as it may require (acting reasonably) to be satisfied as to the payment to date of and the remaining level and availability of:
 - i the Grant Recipient Contribution; and
 - ii the Recovery Beneficiary Contribution;
- (j) evidence that all necessary Consents as are then required have been obtained and all other matters are in place to enable the Infrastructure Works be commenced; and
- (k) a Delivery Plan which incorporates the Milestones and Milestone Dates;
- (l) if required by Homes England, an updated opinion (satisfactory to Homes England acting reasonably) given by a firm of reputable solicitors who have an expertise in State Aid Law as to the State Aid treatment of the Infrastructure Works;
- (m) evidence satisfactory to Homes England demonstrating that the delivery arrangements relating to all HIF Funding for the Infrastructure Works accord with the Delivery Plan;
- (n) to the extent not separately required under paragraph (b) above, where requested by Homes England, the Collateral Warranties delivered in accordance with the Infrastructure Documents;
- (o) a satisfactory Valuation in respect of the Infrastructure Site;

³ If planning permission has yet to be secured, Homes England may require the insertion of additional provisions to deal with obligations/time frames to secure it.

- (p) if requested by Homes England, an updated Valuation of the relevant part of the Site;
- (q) where the Claim or any part of it relates to a Retention, evidence that such Retention will be ring-fenced from any other funds of the party who is under the obligation to hold the Retention⁴; and
- (r) in relation to any Claim to fund the acquisition of any part of the Infrastructure Site, a Certificate of Title in a form acceptable to Homes England in respect of the ownership of that part of the Infrastructure Site being acquired and any other parts of the Infrastructure Site acquired by the Grant Recipient using its own funds (to the extent not already provided) and the Grant Recipient's estate or interest in them (being either the freehold estate or a lease for a term of 99 years or more on terms acceptable to Homes England) issued to Homes England by Solicitors appointed by the Grant Recipient certifying among other things that: (a) the Infrastructure Site is free from any conditions, restrictions, covenants or third party interests which do or might affect the right to carry out and maintain the Infrastructure Works and (b) the Grant Recipient has sufficient rights appurtenant to its estate or interest in the Infrastructure Site to enable Infrastructure Works to be fully carried out and fully serviced without the need to acquire further land or obtain any rights from any other party.

5.3.2 The obligation of Homes England to make available any HIF Funding is also subject to the conditions precedent that at the time of the Claim and at the time of Homes England paying such HIF Funding:

- (a) the Grant Recipient has (or will have as at the time payment of the relevant HIF Funding) all rights required in the Infrastructure Site to secure access to deliver or procure the delivery of the Infrastructure Works which are the subject of the relevant Claim;
- (b) no Event of Default has occurred and is continuing or would result from payment of the proposed HIF Funding;
- (c) Homes England has received such evidence as Homes England may reasonably require that all matters represented and warranted by the Grant Recipient under clause 3 are true and correct as if made at the date of each Claim and would be true and correct immediately after the making of any such HIF Funding; and

⁴ CPs to be updated on a project by project basis

- (d) prior receipt by Homes England of any approvals Homes England may require whether internally or as required by Legislation or by central Government.⁵

5.4 Mechanics and payment of HIF Funding

- 5.4.1 A Claim will not be regarded as having been validly made by the Grant Recipient unless:
 - (a) it is submitted on a Claim Form which must be signed by the Section 151 Officer and is submitted to Homes England within the Availability Period and prior to the 20th day of the month in which the Claim is required;
 - (b) it relates to Infrastructure Expenditure for which the Grant Recipient has not submitted any other Claim or received any other HIF Funding and it is accompanied by written evidence satisfactory to Homes England that such Infrastructure Expenditure has been (or, in exceptional circumstances and always at Homes England's discretion, will be) incurred in the relevant Financial Year in which the Claim is made together with confirmation from the Section 151 Officer that it has verified and approved the Claim provided that if any amount of HIF Funding is retained by the Grant Recipient for the purposes of a Retention such Retention shall be deemed to relate to Infrastructure Expenditure incurred in the relevant Financial Year;
 - (c) it accords with the Expenditure Forecast and the Delivery Plan or is accompanied by evidence satisfactory to Homes England (in its absolute discretion) to justify any deviation;
 - (d) it is for an amount which (if paid) would not cause the Maximum Sum to be exceeded;
 - (e) if it the Claim is for Preliminary Costs and/or Historic Expenditure (without double counting), the conditions at clauses 5.1, 5.2 and 5.3.2 (save for 5.3.2(a)) have been satisfied and
 - (f) and if the Claim is for Infrastructure Expenditure other than Preliminary Costs, the conditions at clauses 5.1 and 5.3 have been satisfied.
- 5.4.2 Subject to the terms of this Agreement, Homes England will pay each undisputed instalment of HIF Funding to the Grant Recipient within twelve (12) Business Days of receipt of a valid Claim.
- 5.4.3 Any amount of HIF Funding not claimed by the Grant Recipient during the Availability Period will no longer be made available to the Grant Recipient.
- 5.4.4 The Grant Recipient may not make more than one Claim per calendar month unless Homes England has agreed otherwise in writing in advance of any ad hoc Claims.

⁵ These may be updated on a project by project basis

5.5 Use of HIF Funding

5.5.1 The HIF Funding will be the sole property of the Grant Recipient and must be used by the Grant Recipient for Infrastructure Expenditure only.

5.5.2 Without affecting the obligations of the Grant Recipient in any way, Homes England is not bound to monitor or verify the application of any amount drawn pursuant to this Agreement.

5.6 Use of Recovery Proceeds

5.6.1 The Grant Recipient must (or, if the Recovery Beneficiary is the recipient, the Recovery Beneficiary must), within ten (10) Business Days of receipt, apply (by actual expenditure or allocation in the relevant budget satisfactory to Homes England) all Recovery Proceeds as follows:

- (a) In the case of Recovery Proceeds received by the Grant Recipient:
 - i towards any remaining Infrastructure Expenditure, including, for the avoidance of doubt, funding payment of Cost Overruns or repaying any sums borrowed in relation to Infrastructure Expenditure; and
 - ii once no further Infrastructure Expenditure remains, towards funding delivery of the Housing Output (and, for the avoidance of doubt, supporting infrastructure and facilities related to the Housing Output (other than the Infrastructure Site)) or other housing developments and related infrastructure within the county of Cumbria;
- (b) in the case of Recovery Proceeds received by the Recovery Beneficiary, towards funding delivery of the Housing Output (and, for the avoidance of doubt, supporting infrastructure and facilities related to the Housing Output (other than the Infrastructure Site)).

5.6.2 Clause 5.6.1 shall cease to apply once the aggregate amount of Recovery Proceeds which has been received by the Grant Recipient and/or the Recovery Beneficiary and applied by them in accordance with clause 5.6.1 (without double counting) exceeds the Maximum Sum.

6 Repayment and Overpayments

6.1 If the Grant Recipient is required to repay any amount of HIF Funding to Homes England, all such repayments shall be considered to be a debt due on demand and must be paid in cleared funds within twenty (20) Business Days to Homes England into such bank account as Homes England shall notify to the Grant Recipient from time to time.

6.2 If the Grant Recipient does not pay any amount it is obliged to pay under this Agreement when it is due, the Grant Recipient shall pay default interest on such outstanding amount from the due date until the date of actual payment (both before and after judgment) at a rate per annum equal to 2% above the Base Interest Rate.

6.3 All payments by the Grant Recipient under or in connection with this Agreement shall be made without set-off or counterclaim, free and clear of and without any deduction or

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withholding, including, without limitation, for or on account of all taxes except for taxes which must be deducted by Law.

- 6.4 If Homes England (acting reasonably) considers at any time that any part of the Maximum Sum was not expended by the Grant Recipient on Infrastructure Expenditure, Preliminary Costs or Historic Expenditure (without double counting) or if at any time Homes England has made any overpayment to the Grant Recipient or has paid the Grant Recipient any sum in excess of the Maximum Sum the Grant Recipient must immediately on written demand repay to Homes England such amount as may be stipulated by Homes England together with Interest.
- 6.5 Where a Balancing Sum has arisen the Grant Recipient shall repay to Homes England a sum equal to the Balancing Sum within twenty (20) Business Days of becoming aware of the Balancing Sum's existence or the request of Homes England, whichever is earlier.
- 6.6 Where the Grant Recipient has made a Claim which (in part or in whole) relates to a Retention and such Retention has not been paid by the Grant Recipient under the relevant Infrastructure Document within 2 years after the date of the relevant Claim, the Grant Recipient shall repay to Homes England such amount of the Claim which related to the Retention.

7 Delivery obligations

7.1 Infrastructure Works commencement and completion

- 7.1.1 The Grant Recipient acknowledges that Homes England has allocated the HIF Funding up to the Maximum Sum on the understanding that the Infrastructure Works will be delivered in accordance with the Delivery Plan.
- 7.1.2 The Recovery Beneficiary must use its reasonable endeavours to facilitate that the Housing Output Targets are achieved by the Housing Output Target Dates and in accordance with the Housing Delivery Statement.
- 7.1.3 The Grant Recipient will procure that Infrastructure Works are delivered in accordance with the Infrastructure Details and the Infrastructure Works commence by the Infrastructure Start on Site Date are completed by the date of Infrastructure Works Practical Completion and in any event by [date to be confirmed by Homes England].

7.2 Developers, Contractors and employees

- 7.2.1 The Grant Recipient must procure that the Infrastructure Developer complies with the terms of the Infrastructure Related Documents which relate to the Infrastructure Works, and the Grant Recipient will enforce and procure the enforcement of the terms of the Infrastructure Related Documents at all times.
- 7.2.2 The Grant Recipient must take all necessary steps to satisfy Homes England that its procurement policies and procedures in relation to employees, suppliers, Contractors and the Infrastructure Developer (as applicable) are suitable and competent in all respects to allow the proper performance of all work or tasks in relation to the Infrastructure Works.

- 7.2.3 The Grant Recipient must ensure that all Contracts entered into in connection with the Infrastructure Work are competitively procured (utilising a documented decision making process) and that the Infrastructure Expenditure represents fair market costs.

7.3 Infrastructure Works

- 7.3.1 The Grant Recipient shall procure that the Infrastructure Works are:
- (a) conducted and completed in accordance with all Consents and the technical specifications and to the Required Standards; and
 - (b) carried out in a good and workmanlike manner; and
 - (c) carried out in compliance with the provisions of the [Considerate Constructors Scheme] save that where there shall be any conflict between the provisions of this Agreement and the provisions of the said scheme the provisions of this Agreement shall prevail.
- 7.3.2 The Grant Recipient shall provide to Homes England a Final Certificate promptly upon completion of the Infrastructure Works.

7.4 Insurances

- 7.4.1 The Grant Recipient shall procure that:
- (a) at all times during the carrying out of the Infrastructure Works there shall be maintained full and proper insurance policies including policies in respect of all buildings upon the Infrastructure Site and all works undertaken in carrying out the Infrastructure Works and all unfixed goods and materials in connection with such works for, in every case, the full reinstatement or replacement costs of them from time to time including professional fees (**Insurance Policies**); and
 - (b) Homes England is a named beneficiary of such Insurance Policies.
- 7.4.2 The Grant Recipient shall supply evidence of such insurance policies (satisfactory to Homes England) within five (5) Business Days of written request from Homes England.
- 7.4.3 If any building upon the Infrastructure Site or any works forming part of the Infrastructure Works, or any materials or goods required to undertake such works are destroyed or damaged (other than as necessary as part of the carrying out of the Infrastructure Works), the Grant Recipient shall procure the rebuilding, reinstatement or replacement of such building, work, goods or materials in accordance with the provisions of this Agreement as soon as reasonably practicable. If the insurance proceeds shall be insufficient the Grant Recipient shall make up any deficiency out of its own monies.
- 7.4.4 The Grant Recipient shall not do or permit or suffer to be done anything which may render any policy or policies of insurance void or voidable.

7.5 Planning

The Grant Recipient must ensure that:

- 7.5.1 where required by Homes England, sufficient Planning Performance Agreements are in place in relation to each Housing Site; or
- 7.5.2 it uses its reasonable endeavours to secure the grant of a planning permission satisfactory to Homes England to deliver the Infrastructure Works; and
- 7.5.3 no change is made to the arrangements contemplated in this clause 7.5 without Homes England's prior written consent (acting reasonably).

7.6 Other

- 7.6.1 The Grant Recipient and the Recovery Beneficiary must take all reasonable steps to procure that the Housing Outputs are delivered in accordance with the Required Standards.
- 7.6.2 The Grant Recipient will allow Homes England and/or any nominated representative or agent to visit the Infrastructure Site at reasonable times and on reasonable notice for the purposes of monitoring the Grant Recipient's progress as against each Milestone and its relevant Milestone Date.
- 7.6.3 Until such time as the Infrastructure Works have been fully delivered in accordance with the terms of this Agreement, the Grant Recipient will ensure that Homes England has the right to be represented at each project meeting relating to the same and that such representative (the details of which are to be advised by Homes England to the Grant Recipient) is provided with reasonable notice of all such meetings and all relevant meeting materials.
- 7.6.4 The Grant Recipient shall:
 - (a) meet all Cost Overruns from its own resources; and
 - (b) on request from Homes England, deliver to Homes England an updated Management Plan.
- 7.6.5 The parties agree that for the purposes of this Agreement "delivered" when used in the context of the Infrastructure Works or Housing Outputs shall be construed to mean that the Infrastructure Works or Housing Outputs (as the context requires) have reached the applicable Practical Completion.
- 7.6.6 The Grant Recipient must ensure that any on-lending or other advance to any third party (including, for the avoidance of doubt, the Recovery Beneficiary) by the Grant Recipient of the whole or a part of the Maximum Sum:
 - (a) is approved in principle by Homes England in advance;
 - (b) is in the case of

- i a loan, protected by such security arrangements as would be expected by a prudent lender advancing its own funds to the borrowing organisation with a view to ensuring their repayment in accordance with the terms of the on-lending agreement; or
- ii a grant, protected by such arrangements as would be expected of a prudent grant giver advancing its own funds to the Grant Recipient with a view to ensuring the proper application of the grant monies for the purposes for which they were advanced and appropriate arrangements for their recovery; and
- (c) is compliant with State Aid requirements and ensures the repayment (together with interest and any penalty) of any sums found to be Unlawful State Aid.

7.6.7 The Grant Recipient must provide a State Aid Confirmation to Homes England every 6 months during the Term or at such other intervals as Homes England may agree from time to time.

7.7 Valuation

The Grant Recipient must ensure that:

- 7.7.1 all information supplied by it or on its behalf to the Valuer for the purposes of each Valuation was true and accurate as at its date or (if appropriate) as at the date (if any) at which it is stated to be given;
- 7.7.2 any financial projections contained in the information referred to in clause 7.7.1 above have been prepared as at their date, on the basis of recent historical information and on the basis of reasonable assumptions;
- 7.7.3 it has not omitted to supply any information within its knowledge, having made all due and careful enquiry, to the Valuer which, if disclosed, would adversely affect any Valuation; and
- 7.7.4 as at the date of the first Claim, nothing has occurred since the date the information referred to in paragraph 6.7.1 above was supplied which, if it had occurred prior to the relevant Valuation of the Site or the Housing Outputs, would have adversely affected that Valuation.

7.8 If required by Homes England, the Grant Recipient shall appoint a Monitoring Surveyor to review, monitor progress and report on delivery as against the Delivery Plan and Expenditure Forecast on such terms as Homes England shall reasonably require.

8 Regulatory and operational obligations

8.1 Consents

The Grant Recipient will procure that no Infrastructure Works are commenced and/or continued without all necessary Consents being received and in particular will procure that no work constituting development for which planning permission is required under the Town and Country Planning Act 1990 is carried out without having obtained detailed planning

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consent and will provide such documents as Homes England requires to demonstrate compliance with this clause 8.1.

8.2 Public procurement

The Grant Recipient must comply with all applicable Procurement Laws in connection with the procurement of the Infrastructure Works or any services relating to them and must further ensure that the procurement of works, equipment, goods and services by the Grant Recipient relating to such Infrastructure Works are based on value for money.

8.3 Legislation (including Health & Safety and Equality & Diversity)

8.3.1 The Grant Recipient (in relation to delivery of the Infrastructure Works) and the Recover Beneficiary (in relation to delivery of the Housing Outputs) must comply with and assist and co-operate with Homes England in order that it can comply with (and (so far as it is legally able) require third parties who benefit from this HIF Funding do the same) all applicable legal obligations and statutory requirements in relation to delivery of the Infrastructure Works or Housing Outputs, including, but not limited to:-

- (a) EU and UK Planning and Environmental legislation;
- (b) State Aid Law;
- (c) State Aid Law, including but not limited to N7471A/99 and N747/8/99 Partnership Support for Regeneration (1) Support for Speculative Developments and (2) Support for Bespoke Developments;
- (d) any relevant Health and Safety Legislation;
- (e) Modern slavery legislation;
- (f) Employment legislation;
- (g) CDM Regulations;
- (h) RIDDOR;
- (i) the Equality Act 2010;
- (j) Equal opportunities (in relation to race, sex, disability, faith and sexuality);
- (k) Financial regulations and legislation;
- (l) Copyright and Data Protection Legislation

8.3.2 The Grant Recipient shall maintain or procure that there is maintained an accurate record of all health, safety and environmental incidents which occur on or in connection with the Infrastructure Works and shall (if requested) provide a report to the Homes England Senior Officer as part of the Monitoring Report arrangements.

8.4 Disposals

- 8.4.1 The Grant Recipient must not, without the prior written consent of Homes England, dispose of the whole or any part of the Infrastructure Site save by way of a Permitted Disposal.
- 8.4.2 In granting any consent under clause 8.4.1 Homes England may impose such conditions as it deems to be appropriate to such consent including a requirement that any disponent registers a restriction on title in favour of Homes England and/or agrees to be bound by clauses similar in effect to clause 8.4.1.
- 8.4.3 The Grant Recipient must not and shall procure that no Infrastructure Developer or Contractor shall grant any lender security over assets funded, or part funded, by this HIF Funding unless the Grant Recipient has first obtained Homes England's written consent.
- 8.4.4 The Grant Recipient must not transfer any land acquired with the benefit of HIF Funding to the Infrastructure Developer to enable or facilitate the provision of the Infrastructure Works for a value which is less than Market Value.

8.5 Other

- 8.5.1 The Grant Recipient must:
- (a) supply to Homes England a copy of any Valuation of the Infrastructure Site the Grant Recipient obtains, promptly upon obtaining it.
 - (b) provide Homes England or any Regulatory Body with such information as may be requested to demonstrate compliance with the Grant Recipient's obligations under clauses 7 and 8; and
 - (c) ensure the availability and application of the Grant Recipient Contribution in the form, quantum and timescale required pursuant to this Agreement.
- 8.5.2 The Grant Recipient must comply with the terms of the Assurance Framework as it applies to Category 4 projects.

9 Variations and Milestone Date Amendments

- 9.1 The Grant Recipient may not make any amendment to the Infrastructure Works or the Infrastructure Details without the prior written consent of Homes England other than amendments which have no material impact upon the delivery of the Infrastructure Works and no impact on the Total Infrastructure Costs, the Expenditure Forecast or the achievement of Milestones.
- 9.2 If a Milestone Failure occurs or is in the reasonable opinion of Homes England likely to occur (having regard to the information supplied pursuant to this Agreement) and such Milestone Failure is not the result of a Milestone Extension Event Homes England shall be entitled (but not obliged) to (acting reasonably):
- 9.2.1 exercise the rights described under clause 13; or

9.2.2 agree by exchange of written correspondence a revised Milestone Date with the Grant Recipient in which case any relevant condition of this Agreement shall apply (changing that which needs to be changed) to the revised Milestone Date.

9.3 Where any Milestone Failure occurs or is in the reasonable opinion of Homes England likely to occur (having regard to the information supplied to Homes England pursuant to this Agreement or otherwise) and Homes England (acting reasonably) determines that such failure is the result of a Milestone Extension Event Homes England shall extend the relevant Milestone Date by such period as it (acting reasonably) considers appropriate to take account of the delay caused or likely to be caused by the Milestone Extension Event save that Homes England shall not for any reason be required to extend beyond **[longstop dates subject to Homes England confirmation]**.

9.4 Where it becomes apparent that a material amendment to the Delivery Plan, the Expenditure Forecast, the Bid, the Infrastructure Works or the Housing Outputs is or will be required, the Grant Recipient and/or the Recovery Beneficiary (as applicable) must, immediately upon becoming aware of such required amendment, notify Homes England and the parties must cooperate in good faith with a view to identifying what steps are available to the Grant Recipient to ensure delivery of the Infrastructure Works and/or Housing Outputs or otherwise agreeing variations to the same.

9.5 Until such time as a resolution is agreed between the parties, Homes England will be under no obligation to make HIF Funding available pursuant to any further Claims or otherwise to the Grant Recipient.

9.6 Where the parties fail to agree a resolution pursuant to clause 9.4 within [three (3) months] of the date of notification under clause 9.4, Homes England will be entitled to exercise its rights under clause 13.3.

10 **Special Contractual Provisions**

10.1 The parties agree that the Special Contractual Provisions have effect.

11 **Notifications, reporting and audit**

11.1 The Grant Recipient and the Recovery Beneficiary (in the latter case, so far as it is aware) shall notify Homes England:

11.1.1 immediately upon any change (whether actual or estimated) required to the Infrastructure Details other than any change permitted under this Agreement;

11.1.2 immediately upon becoming aware of any event which:

- (a) has or might have a Material Adverse Effect on the Grant Recipient; or
- (b) has a detrimental effect on any aspect of the Infrastructure Works and/or the Housing Outputs including, but not limited to, any Milestone Failure;
- (c) prejudices or might prejudice the Grant Recipient's ability to deliver the Infrastructure Works in accordance with the Infrastructure Details;

- (d) prejudices or might prejudice the Grant Recipient's ability to provide the Grant Recipient Contribution;
 - (e) prejudices or might prejudice the Recovery Beneficiary's ability to provide the Recovery Beneficiary Contribution; or
 - (f) has resulted in or might give rise to the making of a Report or Direction.
- 11.1.3 as soon as reasonably practicable on becoming aware of any claim brought against the Grant Recipient arising out of or relating to the activities of the Grant Recipient in relation to the HIF Funding;
- 11.1.4 immediately upon there being a proposed change to:
 - (a) any Infrastructure Related Documents which is material;
 - (b) the use of any asset funded by means of HIF Funding made available under this Agreement (including the purposes for which it is to be used and/or any time periods for which the asset is to be used);
 - (c) the ownership of any asset funded by means of HIF Funding made available under this Agreement
- 11.1.5 immediately upon the occurrence of an Event of Default;
- 11.1.6 immediately upon becoming aware of any investigations into or findings of any breach of:
 - (a) any equality or anti-discrimination legislation or regulations directly or indirectly related to the Infrastructure Works (or any part of them) whether or not the Grant Recipient and/or the Infrastructure Developer and/or any other third party is responsible for the breach or is the subject of the investigation (as appropriate) (such notice to be addressed to the Homes England Senior Officer); and/or
 - (b) the Data Protection Legislation whether or not the Grant Recipient and/or the Infrastructure Developer and/or any other third party is responsible for the breach or is the subject of the investigation (as appropriate) (such notice to be addressed to the Homes England Senior Officer); and/or
 - (c) any challenge under, investigations into or findings of any breach of the Procurement Laws whether or not the Grant Recipient and/or the Infrastructure Developer and/or any other third party is responsible for the breach or is the subject of the investigation (as appropriate) (such notice to be addressed to the Homes England Senior Officer);
- 11.1.7 immediately upon becoming aware of:
 - (a) any audit or statutory or regulatory investigation in relation to any aspect of the Infrastructure Works;

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- (b) the occurrence of any act/omission of the Grant Recipient or of any Contractors, the Infrastructure Developer or subcontractors that harms or has the potential to harm the reputation of Homes England, the Ministry of Housing, Communities and Local Government or to bring them into disrepute; or
 - (c) any event or circumstance which would cause the terms of the State Aid Opinion to be misleading or inaccurate or which would cast doubt upon its continuing validity
- 11.1.8 immediately upon becoming aware that the Maximum Sum is greater than is necessary to deliver the Infrastructure Works to which it relates;
- 11.1.9 immediately, in the event of the receipt by it of any other income or funds or other Public Sector Financial Assistance or guarantees of them, or the offer of same, in respect of the Infrastructure Works or the Housing Outputs beyond any amounts of the same notified by the Grant Recipient to Homes England as part of or in connection with its Bid; and/or
- 11.1.10 immediately upon becoming aware that any information given or supplied in relation to the Pre Commencement Conditions becomes misleading or inaccurate.

11.2 Resolution

In the event of notification by the Grant Recipient under this clause 11, if applicable and if requested by Homes England, the Grant Recipient will provide, together with such notification, a proposal for resolution or mitigation of the event and will take into account all representations of Homes England on such proposals.

11.3 Annual Forecast and Monitoring Reports

- 11.3.1 The Grant Recipient must provide Homes England with its Annual Forecast within one calendar month of the start of each Financial Year.
- 11.3.2 Within ten (10) Business Days of (a) the first day of each calendar month until the Maximum Sum has been paid to the Grant Recipient (or within such longer period as Homes England may at its absolute discretion agree) and thereafter (b) each Quarter Date (or within such longer period as Homes England may at its absolute discretion agree) the Grant Recipient must provide Homes England with a report (the **Grant Recipient Monitoring Report**) which provides details on:
 - (a) progress in achieving the Infrastructure Works and the Housing Outputs;
 - (b) the Grant Recipient's progress against the Delivery Plan and Expenditure Forecast;
 - (c) the need for changes to the Delivery Plan or Expenditure Forecast;
 - (d) the occurrence of any Milestone Failure;
 - (e) the implications of any Notifiable Events;

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- (f) progress on engagement with relevant landowners, developers and promoters (if applicable) in accordance with the Delivery Plan;
- (g) any amendments made to the Infrastructure Works or Infrastructure Details made pursuant to clause 9.1;
- (h) the amount of all Recovery Proceeds which have been received or become payable in the period and to date, together with details of their application in accordance with clause 5.6
- (i) whether a Balancing Sum has arisen; and
- (j) such other matters in relation to the performance of this Agreement as are notified by either party to the other in writing at least fifteen (15) Business Days prior to the relevant Quarter Date.

11.3.3 Within ten (10) Business Days of (a) the first day of each calendar month until the Maximum Sum has been paid to the Grant Recipient (or within such longer period as Homes England may at its absolute discretion agree) and thereafter (b) each Quarter Date (or within such longer period as Homes England may at its absolute discretion agree) the Recovery Beneficiary must provide Homes England with a report (the **Recovery Beneficiary Monitoring Report**) which provides details on:

- (a) progress in achieving the Housing Outputs; and
- (b) the amount of all Recovery Proceeds which have been received or become payable in the period and to date, together with details of their application in accordance with clause 5.6.

11.3.4 Any Annual Forecast or Monitoring Report provided pursuant to this Agreement must be signed by the Section 151 Officer and the Grant Recipient acknowledges that any representations or confirmations made in such Annual Forecasts and Monitoring Reports are true and accurate in all material respects.

11.3.5 Notwithstanding the provisions of clauses 10.3.1 and 10.3.2, Homes England may, if it considers (acting reasonably) that sufficient progress is not being made against the most recent Delivery Plan, request that the Grant Recipient provides additional reports containing such information as it reasonably requests to enable it monitor progress of the Infrastructure Works and the Housing Outputs more closely.

11.3.6 Homes England or the Grant Recipient may call a Review Meeting at any time to discuss (amongst other things) the contents of any Annual Forecast or any matter arising out of the Monitoring Reports provided that the party requesting the meeting:

- (a) gives not less than 15 Business Days prior written notice to the other of such meeting; and
- (b) includes with the notice an agenda for such meeting.

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- 11.3.7 The Grant Recipient shall provide Homes England as soon as is reasonably practicable with such information or reports as Homes England shall reasonably require to support or facilitate the meetings referred to in this Agreement and to monitor the performance of the Grant Recipient's obligations under this Agreement.
- 11.3.8 Homes England and the Grant Recipient shall each use all reasonable endeavours to ensure that any representatives at any meeting held pursuant to this clause 11.3 have the necessary authority and knowledge to deal with the items on the agenda for such meeting.
- 11.3.9 Subject to the prior approval of the other party (such approval not be unreasonably withheld or delayed) either party may request that additional persons attend a meeting to provide detailed or particular advice or information.
- 11.3.10 Save as otherwise agreed between the parties, any meeting under this clause 11.3 shall be minuted by the Grant Recipient and such minutes shall be distributed within ten (10) Business Days following the meeting to Homes England and any other attendee.
- 11.3.11 Nothing in this clause 11.3 shall prevent Homes England from requesting (whether on behalf of itself or any Government office) at any other time information from the Grant Recipient in respect of any of the items listed in this clause 11.3 and the Grant Recipient shall promptly respond to any such request.

11.4 **Annual Review**

- 11.4.1 Homes England, the Grant Recipient and the Recovery Beneficiary shall attend an Annual Review Meeting within ten (10) Business Days (or within such longer period as Homes England may at its absolute discretion agree) of the first Quarter Date in each Financial Year to discuss (but without limitation):
- (a) progress in achieving the Infrastructure Works and the Housing Outputs;
 - (b) the Grant Recipient's projections in relation to its future performance in achieving the Housing Outputs;
 - (c) the Grant Recipient's progress against the Delivery Plan and Expenditure Forecast;
 - (d) the need for changes to the Delivery Plan or Expenditure Forecast;
 - (e) the occurrence of any Milestone Failure;
 - (f) the implications of any Notifiable Events;
 - (g) the Annual Forecast;
 - (h) such other matters in relation to the performance of this Agreement as are notified by either party to the other in writing at least five (5) Business Days prior to the date of the Annual Review Meeting.

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11.5 Inspection and audit facilities

- 11.5.1 The Grant Recipient shall as and when requested by Homes England, make available on an Open Book basis and in a timely manner to Homes England where required in connection with this Agreement or the HIF Documents a copy of each of:
- (a) all data, materials, documents and accounts of any nature created, acquired or brought into existence in any manner whatsoever by or on behalf of the Grant Recipient for the purposes of this Agreement or the HIF Documents; and
 - (b) all such data, materials, documents and accounts created, acquired or brought into existence by the Grant Recipient's officers, employees, agents or consultants relating to the Infrastructure Works or the Housing Outputs and which have been supplied to the Grant Recipient for the purposes of this Agreement.
- 11.5.2 The Grant Recipient shall at all times:
- (a) maintain a full record of particulars of all the income received and expenditure incurred by the Grant Recipient in respect of the Infrastructure Works;
 - (b) when required to do so by Homes England, provide a summary of any of the income and expenditure referred to in clause 11.5.2(a) as Homes England may require to enable it to monitor the performance by the Grant Recipient of its obligations under this Agreement; and
 - (c) provide such facilities as Homes England may require for its representatives to visit any place where the records are held and examine the records maintained under this clause 10.5.
- 11.5.3 The Grant Recipient shall ensure that it and each Developer keeps on an Open Book basis (in accordance with generally accepted accounting practice) separate books of account for items relating to the Infrastructure Works which identify items of revenue received and expenditure incurred in relation to the same.
- 11.5.4 On the expiry of this Agreement or (if earlier) upon termination thereof, the Grant Recipient shall, if requested to do so, deliver up to Homes England all the data, materials, documents and accounts referred to in this clause 10.5 which it has in its possession, custody or control and shall procure the handing over to Homes England such data, materials, documents and accounts referred to in clause 11 or as otherwise directed by Homes England.
- 11.5.5 The Grant Recipient must (and shall procure that each Developer does) for a period of 10 (ten) years from the date of the last payment made to the Grant Recipient under this Agreement retain all of the data, documents, materials and accounts referred to in this clause 10.5 and the Grant Recipient may retain such data, documents, materials and accounts in electronic form only which may for

the avoidance of doubt comprise copies where the originals have been supplied to Homes England pursuant to this clause 11.

12 **Change in financial circumstances**

12.1 The Grant Recipient and/or (as the case may be) the Recovery Beneficiary shall notify Homes England immediately where there is or has been any change in its or a Developer's financial circumstances which has or might have a Material Adverse Effect, including for the avoidance of doubt any withdrawal or reduction of any funding or income available to the Grant Recipient or the Recovery Beneficiary relative to the delivery of the Infrastructure Works, or any reduction or withdrawal in relation to the Grant Recipient Contribution or the Recovery Beneficiary Contribution.

12.2 In the event that Homes England (acting reasonably) believes that any change notified to it pursuant to clause 12.1 or which it otherwise becomes aware of has or might have a Material Adverse Effect, Homes England shall be entitled to exercise any of the rights and remedies set out in clause 13.

13 **Events of Default**

13.1 Where a Fundamental Default has (in Homes England's opinion (acting reasonably)) occurred Homes England shall on the service of written notice be entitled forthwith and without any liability to the Grant Recipient to:

13.1.1 terminate this Agreement in its entirety;

13.1.2 suspend or alter the timing of the payment of any HIF Funding for such period as Homes England will determine in its sole discretion;

13.1.3 withhold and cancel any further payment of HIF Funding due to the Grant Recipient under this Agreement;

13.1.4 require the Grant Recipient immediately to repay the HIF Funding and all other amounts due under this Agreement together with interest; and

13.1.5 reallocate or redirect such part of the HIF Funding (which has not yet been paid to the Grant Recipient) to such other person or for such purpose as Homes England in its discretion considers appropriate.

13.2 Where a General Default has (in Homes England's opinion (acting reasonably)) occurred and is in the opinion of Homes England (using its absolute discretion) capable of remedy:

13.2.1 the Grant Recipient or Recovery Beneficiary (as applicable) (the **Defaulting Party**) must submit a proposed remediation plan (the **Remediation Plan**) to Homes England within twenty (20) Business Days of the occurrence of the General Default setting out the Defaulting Party's proposals for the steps to be taken to remedy or mitigate the effects of the General Default and a basis for testing whether this has been achieved within an appropriate timeframe;

13.2.2 Homes England will notify the Defaulting Party as to whether the Remediation Plan is approved as submitted within twenty (20) Business Days of its receipt;

- 13.2.3 if the Remediation Plan is not approved, the Defaulting Party's Senior Officer and Homes England Senior Officer (acting in good faith with a view to securing delivery of the Infrastructure Works) must meet as soon as practicable (and in any event within ten (10) Business Days of Homes England's notification under clause 13.2.2 or such later date as Homes England may agree) to try to agree a revised Remediation Plan. In default of agreement, a General Default shall be continuing and the Homes England shall be entitled freely to exercise the rights under clause 13.3 without any further suspension of its rights to do so;
- 13.2.4 if the Remediation Plan is approved, the Defaulting Party must comply with the obligations set out in the Remediation Plan and any failure to do so will be treated as a General Default entitling Homes England to exercise its rights under clause 13.3 free of any rights of suspension which would otherwise benefit the Grant Recipient; and
- 13.2.5 within ten (10) Business Days of the end of the timeframe specified in the Remediation Plan, the Defaulting Party's Senior Officer and the Homes England Senior Officer must meet to review the efficacy of the Remediation Plan in remedying or mitigating the effects of the General Default. If in the opinion of Homes England (acting reasonably) the Remediation Plan has not been effective, Homes England shall be entitled in its absolute discretion either to extend the timeframe for the Remediation Plan's operation or to declare that the Remediation Plan has failed in which case a General Default shall be deemed to have occurred entitling Homes England to exercise its rights under clause 13.3 free of any rights of suspension which would otherwise benefit the Grant Recipient.
- 13.3 Subject to clause 13.4, in the circumstances contemplated in clauses 9.6 and 13.2 or where a General Default is in the opinion of Homes England (using its absolute discretion) incapable of remedy, Homes England shall be entitled forthwith and without any liability to the Grant Recipient to:
- 13.3.1 terminate this Agreement in its entirety;
- 13.3.2 suspend or alter the timing of the payment of any HIF Funding for such period as Homes England will determine in its sole discretion;
- 13.3.3 withhold and cancel any further payment of HIF Funding due to the Grant Recipient under this Agreement; and/or
- 13.3.4 reallocate or redirect such part of the HIF Funding (which has not yet been paid to the Grant Recipient) to such other person or for such purpose as Homes England in its discretion considers appropriate.
- 13.4 Nothing in clause 9 or 13.2 shall require Homes England to agree any measure or extension which would delay the delivery of the Infrastructure Works beyond 31 March 2024;
- 13.5 Any exercise by Homes England of its rights under clauses 13.1 or 13.3 will be without prejudice to any other right of action or remedy of Homes England (including any claim for damage) in respect of the relevant Event of Default.

14 Public relations and publicity

- 14.1 The Grant Recipient will ensure that, where appropriate, publicity is given to the Infrastructure Works by drawing attention to the benefits and opportunities afforded by it. In acknowledging the contribution and investment made by Homes England, the Grant Recipient must comply with any guidance on publicity provided by or on behalf of Homes England from time to time.
- 14.2 The Grant Recipient must not publicise or promote the HIF Funding without Homes England's prior written agreement.
- 14.3 The Grant Recipient shall not refer to Homes England or the HIF Funding in any publicity and/or promotional material relating to the Infrastructure Works without first receiving Homes England's written approval to such references.
- 14.4 Homes England reserves the right to use all data provided by the Grant Recipient in relation to the HIF Funding for publicity or promotional purposes.
- 14.5 The Grant Recipient grants to Homes England a non-exclusive, royalty free licence (to the extent it can grant such a licence) to use any photographs, records, images, articles or illustrations relating to the Infrastructure Works undertaken by or for the Grant Recipient for use in any publicity or advertising, whether published alone or in conjunction with any other person.
- 14.6 The Recovery Beneficiary grants to Homes England a non-exclusive, royalty free licence (to the extent it can grant such a licence) to use any photographs, records, images, articles or illustrations relating to the Housing Outputs undertaken by or for the Grant Recipient for use in any publicity or advertising, whether published alone or in conjunction with any other person.

15 Reputation of the parties

- 15.1 The Grant Recipient will not, and will use all reasonable endeavours to procure that the Developer(s) will not knowingly do or omit to do anything in relation to the HIF Documents, the Infrastructure Works and Housing Outputs or in the course of their other activities that may bring the standing of Homes England into disrepute or attract adverse publicity for Homes England.
- 15.2 No party will publish any statement, orally or in writing, relating to the other parties which might damage that other party's reputation or that of any of its officers or employees.
- 15.3 The Grant Recipient has not at any time, engaged in any activity, practice or conduct that would constitute an offence under the Bribery Act 2010.
- 15.4 The Grant Recipient is not ineligible to be awarded any contract or business under the Public Contracts Regulations or section 26 of the Utilities Contracts Regulations 2006 (SI 2006/6) (each as amended).
- 15.5 The Grant Recipient will not engage (directly or indirectly) in any activity, practice or conduct that would constitute an offence under the Bribery Act 2010.

15.6 The Grant Recipient will maintain in place adequate procedures in line with guidance published by the Secretary of State under section 9 of the Bribery Act 2010 designed to prevent any Associated Person of a person from bribing another person (within the meaning given in section 7(3) of the Bribery Act 2010) intending to obtain or retain business or an advantage in the conduct of the business of a person. The Grant Recipient shall supply to Homes England, promptly on request of Homes England, copies of such documentation or other evidence as is reasonably requested by Homes England to enable Homes England to satisfy itself that such procedures are in place.

15.7 The Grant Recipient shall supply to Homes England, promptly on becoming aware of them, details of any investigation, enquiry or enforcement proceedings by any governmental, administrative or regulatory body relating to any offence or alleged offence under the Bribery Act 2010 against it.

16 **Confidentiality and freedom of information**

16.1 **Confidentiality**

16.1.1 Each party recognises that under the HIF Documents it may receive Confidential Information belonging to the other.

16.1.2 Each party agrees to treat all Confidential Information belonging to the other parties as confidential and not to disclose such Confidential Information or any other confidential information relating to Homes England arising or coming to its attention during the currency of this Agreement to any third party without the prior written consent of the other party and agrees not to use such Confidential Information for any purpose other than that for which it is supplied under the relevant HIF Document.

16.1.3 The obligations of confidence referred to in clause 16.1 will not apply to any Confidential Information which:

- (a) is in, or which comes into, the public domain otherwise than by reason of a breach of a HIF Document or of any other duty of confidentiality relating to that information; or
- (b) is obtained from a third party without that third party being under an obligation (express or implied) to keep the information confidential; or
- (c) is lawfully in the possession of the other party before the date of this Agreement and in respect of which that party is not under an existing obligation of confidentiality; or
- (d) is independently developed without access to the Confidential Information of the other party.

16.1.4 Each party will be permitted to disclose Confidential Information to the extent that it is required to do so:

- (a) to enable the disclosing party to perform its obligations under any HIF Document or Infrastructure Related Document; or

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- (b) by any applicable law or by a court, arbitral or administrative tribunal in the course of proceedings before it including without limitation any requirement for disclosure under the FOIA and the EIR and the Grant Recipient acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and Homes England may nevertheless be obliged to disclose such Confidential Information; or
- (c) by any regulatory body (including any investment exchange) acting in the course of proceedings before it or acting in the course of its duties; or
- (d) In order to give proper instructions to any professional adviser of that party who also has an obligation to keep any such Confidential Information confidential.

16.1.5 The Grant Recipient and the Recovery Beneficiary will ensure that all Confidential Information obtained from Homes England under or in connection with any HIF Document:

- (a) is given only to such of its and their respective employees, professional advisors, Contractors, Developers or consultants engaged to advise it in connection with this Agreement as is strictly necessary for the performance of the HIF Document and only to the extent necessary for the performance of that HIF Document;
- (b) is treated as confidential and not disclosed (without Homes England's prior written approval) or used by any such staff or professional advisors, Contractors or consultants or Developers otherwise than for the purposes of that HIF Document; and
- (c) where it is considered necessary in the opinion of Homes England (using its absolute discretion) the Grant Recipient and the Recovery Beneficiary will procure that such staff, professional advisors, Contractors, Developers or consultants sign a confidentiality undertaking before commencing work in connection with this Agreement.

16.1.6 Nothing in this clause 16.1 shall prevent Homes England:

- (a) disclosing any Confidential Information for the purpose of:
 - i the examination and certification of Homes England's accounts; or
 - ii any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which Homes England has used its resources; or
- (b) disclosing any Confidential Information obtained from the Grant Recipient:
 - i to any other department, office or agency of the Crown; or
 - ii to any person engaged in providing any services to Homes England for any purpose relating to or ancillary to a HIF Document or any person conducting an Office of Government Commerce gateway review;

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- (c) provided that in disclosing information under clauses 16.1.6(b)i or 16.1.6(b)ii Homes England discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

16.1.7 Nothing in this clause 16.1 shall prevent a party from using any techniques, ideas or know-how gained during the performance of the HIF Documents in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

16.1.8 Nothing in the clause 16.1 shall prevent Homes England from publishing information relating to Total Infrastructure Costs, the Infrastructure Expenditure, the Maximum Sum, the Infrastructure Works or the Housing Outputs.

16.1.9 Nothing in this clause 16 shall prevent the disclosure of information as between the Grant Recipient and Recovery Beneficiary as relevant to meeting their respective obligations pursuant to the terms of this Agreement.

16.2 **Freedom of information**

16.2.1 The parties to this Agreement are FOIA Authorities and:

- (a) are subject to legal duties which may require the release of information; and
- (b) FOIA Authorities may be under an obligation to provide Information subject to a Request for Information.

16.2.2 The FOIA Authority in receipt of or to receive the RFI (**Relevant FOIA Authority**) will be responsible for determining in its absolute discretion whether:

- (a) any Information is Exempted Information or remains Exempted Information; and/or
- (b) any Information is to be disclosed in response to a Request for Information;

and in no event shall any party, other than the Relevant FOIA Authority, respond directly to a RFI except to confirm receipt of the RFI and that the RFI has been passed to the Relevant FOIA Authority unless otherwise expressly authorised to do so by the Relevant FOIA Authority.

16.2.3 Subject to clause 16.2.4 below, each party acknowledges that the Relevant FOIA Authority may disclose Information:

- (a) without consulting the other; or
- (b) following consultation with the other party and having taken (or not taken, as the case may be) its views into account.

- 16.2.4 Without in any way limiting clauses 16.2.2 and 16.2.3, in the event that the Relevant FOIA Authority receives a RFI, the Relevant FOIA Authority will, where appropriate, as soon as reasonably practicable notify the other party.
- 16.2.5 Each party will assist and co-operate as requested by the Relevant FOIA Authority to enable the Relevant FOIA Authority to comply with its disclosure requirements under FOIA and EIR within the prescribed periods for compliance and in particular without limitation will (and will procure that its agents and subcontractors will), at their own cost:
- (a) transfer any RFI received to the Relevant FOIA Authority as soon as practicable after receipt and in any event within two (2) Business Days of receiving a RFI;
 - (b) provide all such assistance as may be required from time to time by the Relevant FOIA Authority and supply such data or Information as may be requested by the Relevant FOIA Authority;
 - (c) provide the Relevant FOIA Authority with any data or Information in its possession or power in the form that the Relevant FOIA Authority requires within thirty (30) Business Days (or such other period as the Relevant FOIA Authority may specify (acting reasonably)) of the Relevant FOIA Authority requesting that Information; and
 - (d) permit the Relevant FOIA Authority to inspect any records as requested from time to time.
- 16.2.6 Nothing in this Agreement will prevent the Relevant FOIA Authority from complying with any valid order, decision, enforcement or practice recommendation notice issued to it by the Information Commissioner under FOIA and / or EIR in relation to any Exempted Information.
- 16.2.7 Each party acknowledges and agrees that the Relevant FOIA Authority may in its absolute discretion redact all or part of the Information within a RFI prior to its publication. In so doing and in its absolute discretion the Relevant FOIA Authority may take account of any EIR Exceptions and FOIA Exemptions. The Relevant FOIA Authority may in its absolute discretion consult with the other party regarding any redactions to the Information to be published pursuant to this clause 16. The Relevant FOIA Authority will make the final decision regarding publication and/or redaction of the Information.
- 16.2.8 The obligations in this clause 16 will survive the expiry or termination of the HIF Documents for a period of two (2) years or, in respect of any particular item of Confidential Information, until such earlier time as that item of Confidential Information reaches the public domain otherwise than by reason of a breach of a HIF Document or of any other duty of confidentiality relating to that information.

16.3 Publication of information before Parliament

The Grant Recipient acknowledges that the National Audit Office has the right to publish details of the HIF Documents in its relevant reports to Parliament.

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17 Data protection

- 17.1 The parties will co-operate with one another in order to enable each party to fulfil its statutory obligations under the Data Protection Legislation.
- 17.2 Without prejudice to the generality of clause 17.1, the Grant Recipient warrants and represents that it has obtained all and any necessary registrations, notifications and consents required by the Data Protection Legislation to Process Personal Data for the purposes of performing its obligations under this Agreement. The Grant Recipient undertakes at all times during the term of this Agreement to comply with the Data Protection Legislation (and the data protection principles contained therein) in processing all Personal Data in connection with this Agreement and shall not perform its obligations under this Agreement in such a way as to cause Homes England to breach any of its applicable obligations under the Data Protection Legislation.

18 Intellectual property

- 18.1 Subject to the provisions of this clause 18.1 the Grant Recipient (in relation to the Infrastructure Works) and the Recovery Beneficiary (in relation to the Housing Outputs) hereby grant, to the extent they can grant, to Homes England a perpetual, transferable, non-exclusive, royalty-free licence (carrying the right to grant sub-licences) to copy, use (from computer disk or otherwise) and to make publicly available all and any Intellectual Property Rights, drawings, reports, specifications, calculations and other documents and information provided by them or which are or become owned by them and which relate to the Infrastructure Works or the Housing Outputs (as applicable), for any purpose either relating to this Agreement or to the dissemination by Homes England of Best Practice.
- 18.2 To the extent that any of the data, materials and documents referred to in clause 18.1 are generated by or maintained on a computer or in any other machine readable format, the Grant Recipient or the Recover Beneficiary (as applicable) shall if requested by Homes England procure for the benefit of Homes England at the cost of the Grant Recipient or the Recover Beneficiary (as applicable) the grant of a licence or sub-licence for the term of this Agreement and supply any relevant software and/or database to enable Homes England making such request to access and otherwise use such data for the purposes referred to in clause 18.1.
- 18.3 No party shall infringe any third party's Intellectual Property Rights in connection with this Agreement.
- 18.4 The Grant Recipient shall fully indemnify Homes England within five (5) Business Days of demand under this clause 18.4 against any action, claim, demand, proceeding, cost, charge or expense arising from or incurred by it by reason of any infringement or alleged infringement by the Grant Recipient of any Intellectual Property Rights of any third party by the activities described in this clause 18.4, any breach by the Grant Recipient of this clause 18.4 and against all costs and damages of any kind which Homes England may incur in connection with any actual or threatened proceedings before any court or adjudication body.
- 18.5 The Recovery Beneficiary shall fully indemnify Homes England within five (5) Business Days of demand under this clause 18.4 against any action, claim, demand, proceeding, cost, charge or expense arising from or incurred by it by reason of any infringement or alleged

infringement by the Recovery Beneficiary of any Intellectual Property Rights of any third party by the activities described in this clause 18.4, any breach by the Recovery Beneficiary of this clause 18.4 and against all costs and damages of any kind which Homes England may incur in connection with any actual or threatened proceedings before any court or adjudication body.

- 18.6 The Grant Recipient and the Recovery Beneficiary shall only be entitled to revoke the licence granted to Homes England under clause 18.1 on the termination of the whole of this Agreement.
- 18.7 The Grant Recipient and the Recovery Beneficiary shall provide whatever assistance and explanation is required by Homes England to enable it to disseminate Best Practice (including the methods by which the Infrastructure Works were conducted).
- 18.8 Homes England's decision as to what constitutes Best Practice shall be final (and Homes England acknowledges that it does not intend to use this clause 18.8 to make commercially sensitive information publicly available).
- 18.9 Homes England shall be entitled to amend any of the Intellectual Property Rights or information provided under this clause 18.9 or to combine them with any other information or know how as it thinks fit when compiling and publishing Best Practice in exercise of the right conferred under clause 18.1.

19 **Further assurance**

At any time upon the written request of Homes England the Grant Recipient and the Recovery Beneficiary will promptly execute and deliver or procure the execution and delivery of any and all such further instruments and documents as may be necessary for the purpose of obtaining for Homes England the full benefit of this Agreement or any other HIF Document and of the rights and powers therein granted.

20 **Indemnity**

The Grant Recipient shall:

- 20.1 be liable for and will indemnify Homes England in full against any expense, liability, loss, claim or proceedings arising under statute or at common law in respect of personal injury to or death of any person whomsoever or loss of or damage to property whether belonging to Homes England or otherwise or any claim by any third party arising out of or in the course of or caused or contributed to by the Grant Recipient and/or the performance or non-performance or delay in performance by the Grant Recipient of its obligations under any of the HIF Documents except to the extent that the same is due to any wilful neglect of Homes England and/or the Recovery Beneficiary; and
- 20.2 be liable for and shall indemnify Homes England against any expense, liability, loss, claim or proceedings arising directly or indirectly from or in connection with any breach of the terms of this Agreement by or otherwise through the default or negligence of the Grant Recipient.

21 **Senior Officers**

21.1 **Authority of the Grant Recipient Senior Officer**

The Grant Recipient represents to Homes England that the Grant Recipient Senior Officer has full authority to act on its behalf for all purposes under the HIF Documents. Homes England and the Homes England Senior Officer are entitled to treat any act of the Grant Recipient Senior Officer in connection with the HIF Documents as being expressly authorised by the Grant Recipient (save where the Grant Recipient has notified Homes England that such authority has been revoked) and Homes England will not be required to determine whether any express authority has in fact been given.

21.2 **Grant Recipient Senior Officer's power to delegate**

The Grant Recipient Senior Officer may authorise any of its subordinates to exercise its powers under the HIF Documents by notice to Homes England.

21.3 **Authority of the Homes England Senior Officer**

Homes England represents to the Grant Recipient that the Homes England Senior Officer has full authority to act on its behalf for all purposes under the HIF Documents. The Grant Recipient is entitled to treat any act of the Homes England Senior Officer in connection with the HIF Documents as being expressly authorised by Homes England (save where Homes England has notified the Grant Recipient that such authority has been revoked) and the Grant Recipient will not be required to determine whether any express authority has in fact been given.

21.4 **Homes England Senior Officer's power to delegate**

The Homes England Senior Officer may authorise any of its subordinates to exercise any of its powers under any HIF Document by notice to the Grant Recipient.

21.5 **Notices**

Subject to clause 29, any notice, information, instructions or public communication given in writing to the Homes England Senior Officer or the Grant Recipient Senior Officer will be deemed to have been given to their respective appointing party.

22 **No agency, partnership or employment**

22.1 Nothing in this Agreement or otherwise shall be held, implied or deemed to constitute a partnership, joint venture or other association or, save as expressly provided, the relationship of principal and agent between the parties for any purpose whatsoever.

22.2 The Grant Recipient shall at all times be independent and nothing in this Agreement shall be construed as creating the relationship of employer and employee between Homes England and the Grant Recipient. Neither the Grant Recipient nor any of its respective employees shall at any time hold itself or themselves out to be an employee of Homes England.

22.3 The Grant Recipient will not say or do anything which may pledge the credit of or otherwise bind Homes England or that may lead any other person to believe that the Grant Recipient is acting as Homes England.

23 **Assignment and sub contracting**

23.1 Homes England will be entitled to assign, transfer or novate its rights and obligations under this Agreement.

23.2 The Grant Recipient will not be entitled to assign, transfer or novate its rights and obligations under this Agreement.

24 **Value Added Tax**

24.1 The parties understand and agree that the HIF Funding by Homes England under this Agreement is not consideration for any supply for Value Added Tax (VAT) purposes whether by the Grant Recipient or otherwise.

24.2 If, notwithstanding the agreement and understanding of the parties as set out in clause 24.1 above, it is determined that the HIF Funding is consideration for a supply for VAT purposes, the HIF Funding shall be treated as inclusive of any VAT.

24.3 All sums or other consideration payable to or provided by the Grant Recipient to Homes England at any time will be deemed to be exclusive of all VAT payable and where any such sums become payable or due or other consideration is provided, the Grant Recipient will pay to Homes England all the VAT payable upon the receipt of a valid VAT invoice.

25 **No fettering of discretion/statutory powers**

Nothing contained in or carried out pursuant to any HIF Document or apparently or impliedly contained in this Agreement or any of the deeds and documents referred to herein and no consents given by Homes England or the Grant Recipient will unlawfully prejudice Homes England's or the Grant Recipient's (as appropriate) rights, powers or duties and/or obligations in the exercise of its functions or under any statutes, byelaws, instruments, orders or regulations.

26 **Fees and Expenses**

26.1 **Costs**

Each party shall pay its own costs in connection with the negotiation, preparation, and execution of this Agreement, and all documents ancillary to it.

26.2 **Variations and Enforcement Costs**

The Grant Recipient shall, forthwith on demand, pay to Homes England the amount of all costs and expenses (including legal fees and irrecoverable VAT relating thereto) incurred by it:

26.2.1 in connection with the variation or amendment (where such variation or amendment is proposed by the Grant Recipient) of, or the enforcement or preservation of any rights under, any HIF Document; or

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26.2.2 in investigating any Event of Default which has or is believed to have occurred.

26.3 The Grant Recipient shall not be required to pay any costs or expenses of the type contemplated in Condition 26.2.2 if the results of Homes England's investigation reveal that there is no Event of Default.

27 **State Aid**

27.1 The parties acknowledge that HIF Funding will only be provided where such payment is compliant with State Aid requirements.

27.2 If the HIF Funding is found to constitute Unlawful State Aid (or is under investigation or subject to judicial proceedings in relation to State Aid compliance) then:

27.2.1 the parties acting in good faith will seek to restructure the arrangements surrounding the project which includes the Infrastructure Works and the terms of this Agreement to the extent necessary to ensure State Aid compliance; and/or

27.2.2 the parties shall promptly cooperate in good faith to provide evidence that the project which includes the Infrastructure Works (or the restructured Infrastructure Works) is or will be State Aid compliant.

27.3 If the project which includes the Infrastructure Works is found to constitute Unlawful State Aid and/or is not capable of being restructured so as to be compliant then the Grant Recipient must repay any sum of Unlawful State Aid plus such interest as is prescribed by State Aid Law within fifteen (15) Business Days of Homes England issuing it with a written demand for payment.

27.4 Homes England may review this Agreement, at any time prior to or following the withdrawal of the United Kingdom from the European Union, to ensure that the provisions of the Agreement comply with any United Kingdom Competition Requirements which may be applicable to it or the parties and to ensure that no Unlawful State Aid has or is likely to arise.

27.5 If as a result of any review undertaken in accordance with clause 27.4 it is found that a United Kingdom Competition Requirement applies or will apply to this Agreement then the Grant Recipient and Homes England shall amend this Agreement to the extent necessary to ensure that the provisions of this Agreement are compatible with any applicable United Kingdom Competition Requirement.

28 **Co-operation**

28.1 Each party undertakes to co-operate in good faith with the other to facilitate the proper performance of this Agreement and the delivery of the Infrastructure Works and the Housing Outputs and in particular will (subject to clause 28.2):

28.1.1 use all reasonable endeavours to avoid unnecessary disputes and claims against the other party;

28.1.2 not interfere with the rights of any other party (nor its employees, agents, representatives, contractors or subcontractors) in performing its obligations under this Agreement nor in any other way hinder or prevent any other party (nor

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its employees, members, agents, representatives, contractors or subcontractors) from performing those obligations provided that this provision shall not prevent any party from exercising its express rights under this Agreement; and

28.1.3 ensure that the Infrastructure Works are delivered in an economically commercial manner.

28.2 Nothing in clause 28.1 shall:

28.2.1 interfere with the right of each of the parties to arrange its affairs in whatever manner it considers fit in order to perform its obligations under this Agreement and in connection with the Infrastructure Works or the Housing Outputs in the manner in which it considers to be the most effective and efficient; or

28.2.2 relieve a party from any obligation contained in this Agreement.

28.3 The Grant Recipient shall co-operate fully and in a timely manner with any reasonable request from time to time:

28.3.1 of any auditor (whether internal or external) of Homes England to provide documents, or to procure the provision of documents, relating to the Infrastructure Works, and to provide, or to procure the provision of, any oral or written explanation relating to the same; and/or

28.3.2 of the Monitoring Surveyor to provide the information or documents, relating to the Infrastructure Works, and to provide, or to procure the provision of, any oral or written explanation relating to the same;

28.3.3 of Homes England where Homes England is required under any legislation to provide any document relating to the Infrastructure Works or the Housing Outputs to any person.

28.4 The Grant Recipient shall fully co-operate and procure that any Developer co-operates with any reasonable request made by the Monitoring Surveyor which relates to the Infrastructure Works.

28.5 The Grant Recipient shall promptly and fully co-operate with any request for information or evidence or for it to provide an explanation to Homes England (to the extent this arises from compliance with State Aid requirements or if Homes England is required to provide to a third party such information or evidence either under Legislation or by a competent authority).

29 **Notices**

29.1 The Grant Recipient contact for all enquiries at Homes England is the HIF Programme Management Office.

All correspondence with Homes England must be in writing and either be delivered at or sent by first class post to:

Homes England, 11th Floor, No.1 Mann Island, Liverpool, L3 1BP with a copy to:

HIF Programme Management Office, Homes England, One Friargate, Coventry CV1 2GN

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- 29.2 Any notice or other communications between the parties shall be accepted as having been received:
- 29.2.1 if sent by first class post, three (3) days after posting exclusive of the day of posting, or
- 29.2.2 if delivered by hand, on the day of delivery,
- 29.2.3 in the case of Homes England addressed as set out above and in the case of the Grant Recipient, 111 Botchergate, Carlisle, CA1 1RZ.
- 29.3 Either of Homes England or the Grant Recipient may change the details of service by notice in accordance with the above.
- 30 **Rights of third parties**
- Except as otherwise expressly provided no person who is not a party shall be entitled to enforce any terms of this Agreement solely by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 31 **Entire agreement**
- 31.1 This Agreement and the conditions herein contained together with the Schedules and Annexures constitute the entire agreement between the parties in relation to its subject matter and may only be varied or modified in accordance with clause 38.
- 31.2 The Grant Recipient hereby acknowledges that save as set out or referred to in the Agreement there are and have been no representations made by or on behalf of Homes England of whatsoever nature on the faith of which the Grant Recipient is entering into this Agreement.
- 32 **Severance**
- If any term, condition or provision contained in this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall to that extent be omitted from this Agreement and shall not affect the validity, legality or enforceability of the remaining parts of this Agreement.
- 33 **Cumulative rights and enforcement**
- Any rights and remedies provided for in this Agreement whether in favour of Homes England or the Grant Recipient are cumulative and in addition to any further rights or remedies which may otherwise be available to those parties.
- 34 **Waiver**
- 34.1 The failure of any party at any one time to enforce any provision of this Agreement in no way affects its right thereafter to require complete performance by the other party, nor may the waiver of any breach or any provision be taken or held to be a waiver of any subsequent breach of any provision or be a waiver of the provision itself.

34.2 Where in this Agreement any obligation of a party is to be performed within a specified time that obligation shall be deemed to continue after that time if the party fails to comply with that obligation within the time.

34.3 Any waiver or release of any right or remedy of a party must be specifically granted in writing signed by that party and shall:

34.3.1 be confined to the specific circumstances in which it is given;

34.3.2 not affect any other enforcement of the same or any other right; and

34.3.3 (unless it is expressed to be irrevocable) be revocable at any time in writing.

35 **Disclaimer**

Homes England will not be liable to the other party for any advice given by a representative of Homes England. In addition, Homes England gives no assurance as to the suitability or viability of the Infrastructure Works or the Housing Outputs and no endorsement of the same.

36 **Dispute Resolution**

36.1 All disputes and differences arising out of or in connection with this Agreement (a **Dispute**) shall be resolved pursuant to the terms of this clause 36.

36.1.1 In the event that the Grant Recipient or Homes England consider that a Dispute exists, such party shall serve a notice upon the other party (a **Notice of Dispute**) giving brief details of the Dispute and in the first instance the parties shall use their reasonable endeavours to resolve such Dispute amicably and in good faith and in accordance with this clause 36.

36.1.2 Representatives of the parties (who should rank at least as Assistant Director (or equivalent)) shall meet within five (5) Business Days (or such other longer period not exceeding twenty (20) Business Days as the parties may agree) of receipt of a Notice of Dispute.

36.1.3 Where either no representatives of both parties are available to meet within the period set out in clause 36.1.2 or the representatives fail to agree a unanimous resolution of the Dispute at such meeting, the Dispute shall be referred to the chief executive (or nominated deputy) of the Grant Recipient and Homes England's Chief Investment Officer (the **Senior Executives**).

36.1.4 The Senior Executives shall meet within ten (10) Business Days (or such other longer period not exceeding twenty (20) Business Days as the parties may agree) of such referral to attempt to resolve the Dispute. Any unanimous resolution of the Senior Executives shall be recorded in writing and signed by them and shall be final and binding unless the parties agree otherwise.

36.1.5 If the Dispute remains unresolved after ten (10) Business Days following referral to the Senior Executives, such Dispute must be dealt with in accordance with clause 36.2.

- 36.2 In the circumstances contemplated in clause 36.1.5, the parties will attempt to settle the Dispute by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed by the parties, the mediator will be nominated by CEDR. The parties agree that:
- 36.2.1 to initiate the mediation a party must give notice in writing (**ADR notice**) to the other party to the Dispute requesting a mediation. A copy of the request should be sent to CEDR; and
 - 36.2.2 the mediation shall start not later than twenty eight (28) days after the date of the ADR notice.
- 36.3 In the event that either the mediation referred to in clause 36.2 has terminated or the Grant Recipient has failed to participate in the mediation Homes England may:
- 36.3.1 require the Grant Recipient immediately to repay the HIF Funding and all other amounts due under this Agreement together with Interest;
 - 36.3.2 terminate this Agreement in its entirety;
 - 36.3.3 withhold and cancel any further payment of HIF Funding due to the Grant Recipient under this Agreement; and/or
 - 36.3.4 reallocate or redirect such part of the HIF Funding (which has not yet been paid to the Grant Recipient) to such other person or for such purpose as Homes England in its discretion considers appropriate.
- 36.4 Homes England reserves the right to invite the Developer to attend any meeting held pursuant to clause 36.1. The parties agree that the Developer shall be entitled to express an opinion at such meeting, but any opinion so expressed shall not be binding upon either of Homes England or the Grant Recipient.

37 **Governing law**

This Agreement shall be governed by and construed in accordance with the Laws of England and Wales and subject to the provisions of clause 36 the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

38 **Amendment**

- 38.1 The parties agree that (save as otherwise provided) this Agreement may be amended by agreement in writing between Homes England and the Grant Recipient.
- 38.2 In granting any consent or waiver under this Agreement Homes England may impose such conditions as it deems to be appropriate to such consent.

39 **Survival of this Agreement**

- 39.1 Insofar as any of the rights and powers of Homes England provided for in this Agreement shall or may be exercised or exercisable after the termination or expiry of this Agreement the provisions of this Agreement conferring such rights and powers shall survive and remain in full force and effect notwithstanding such termination or expiry.

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39.2 Insofar as any of the obligations of the Grant Recipient provided for in this Agreement remain to be discharged after the termination or expiry of this Agreement the provisions of this Agreement shall survive and remain in full force and effect notwithstanding such termination or expiry.

40 **Miscellaneous**

40.1 Any approval by Homes England or any person on behalf of Homes England pursuant to this Agreement of any matter submitted by the Grant Recipient for approval will not be deemed to be an acceptance by Homes England of the correctness or suitability of the contents of the subject of the approval or consent.

40.2 The parties will and will ensure that their respective officers and employees will act at all times in a way which is compatible with the Convention Rights within the meaning of the Human Rights Act 1998.

40.3 A certificate by Homes England as to any sum payable hereunder by the Grant Recipient will be conclusive save in the case of manifest error.

41 **Several Liability**

The liability and obligations of the Grant Recipient and Recovery Beneficiary (the "**Promisors**") under this Agreement are several. Each Promisor is only liable in respect of losses arising from its own breach save that the Grant Recipient and Recovery Beneficiary each expressly acknowledge and agree that and right Homes England may have to seek repayment of any HIF Funding may be exercised solely against the Grant Recipient.

In witness of which this Agreement has been duly executed as a deed and is delivered and takes effect on the date written at the beginning of this Agreement.

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Heads of Terms
Cooperation Agreement
Subject to Contract

Parties	<p>1. Cumbria County Council</p> <p>2. Carlisle City Council</p> <p>each a "Party" and together the "Parties".</p>
Background	<p>Cumbria County Council is to deliver the Carlisle Southern Link Road (the "Road Project").</p> <p>Carlisle City Council is to deliver St Cuthbert's Garden Village of not less than 10,000 houses at St Cuthbert's Garden (the "Housing Project")</p> <p>Both parties are parties to an agreement with Homes England for HIF Grant Funding of £102m for the delivery of the Road Project on the basis that this will support the delivery of the Housing Project (the "HIF Agreement").</p>
Conditions	<p>This arrangement is conditional upon the final terms of the HIF Agreement with Homes England being agreed and signed by all three parties.</p>
Obligations	<ul style="list-style-type: none">• Each Party undertakes to the other Party that it shall fulfil the obligations in the HIF Agreement which relate to the project which it is responsible for delivering and any requirements of the Assurance Framework.• Each Party agrees to fully co-operate with the other Party and to act in good faith.
Financial Commitment	<p>Carlisle City Council agrees to provide £5,000,000 (five million pounds) to Cumbria County Council at completion of the agreement to support delivery of the CSLR.</p> <p>In consideration for this, Carlisle City Council acknowledges that Cumbria County Council has already provided £5,000,000 (five million pounds) to support delivery of the CSLR.</p> <p>Carlisle City Council shall procure £10,000,000 in developer contributions to reimburse upfront costs incurred by each Authority.</p> <p>Carlisle City Council will confirm the appropriate mechanism for securing those contributions and any such contributions will be received will be shared equally between Carlisle City Council and Cumbria County Council.</p>
Key Project Documents	<p>Carlisle City Council shall develop the Housing Delivery Strategy to meet the requirements of Homes England. It shall revise the Housing Delivery Strategy as required by Homes England and shall be responsible for the implementation and for monitoring all outputs under</p>

	the Housing Delivery Strategy,
Governance	The Parties will operate a strategic board which shall operate to monitor the delivery of the projects, outputs and progress of the Housing Delivery Strategy and compliance with the HIF Agreement and assurance framework. The Strategic Board shall operate in accordance with the agreed terms of reference for that board.
Reporting and Monitoring	<p>The Parties acknowledge the reporting and monitoring requirements in the HIF Agreement and that Cumbria County Council is appointed to provide all reporting under this arrangement.</p> <p>Carlisle City Council will provide all information and reports required in a timely fashion to Cumbria County Council to enable them to meet their obligations under the HIF Agreement and warrant that all information provided will be accurate and not breach any third party intellectual property rights.</p> <p>If Carlisle City Council fail to comply with these obligations then Cumbria County Council shall be entitled to attend the premises of Carlisle City Council and shall be granted access to all systems, intellectual property and data which may be required to enable Cumbria County Council to meet its reporting obligations under the HIF Agreement and shall be entitled to recover all costs associated with this.</p>
Recovery of Funds	Where there are any recovery proceeds then the parties are required to apply these in accordance with the HIF agreement and this is to be acknowledged as between the parties.
Breach of HIF	<p>Where the City Council causes clawback of any HIF funding as a result of causing or permitted a Fundamental Default of the HIF Agreement then it shall indemnify Cumbria County Council against all losses to include the total HIF paid, interest and any associated penalties and/or legal costs.</p> <p>It will also meet the costs of any amount of HIF which will no longer be paid to deliver the rest of the project.</p>
Default and Termination	<p>Where the City Council causes a General Default because of obligations it has agreed to under the HIF Agreement including any breach of warranty then it shall be responsible for the preparation and implementation of the remediation plan and shall indemnify the County Council against any losses it suffers as a result of the breach.</p> <p>If there is any reduction in the Maximum Sum under the HIF Agreement as a result of a reduction in Housing Outputs or as a result of any other action by the City Council then it shall indemnify the County Council against all associated losses.</p>
Indemnity, Liability and Insurance	<p>Each Party agrees to provide an indemnity to the other Party in relation to any breach of contract or negligence which leads to a loss of the other Party.</p> <p>Each Party will need to maintain insurances in support of the Project it is delivering.</p> <p>Any limitations on liability need to be considered.</p>
Dispute Resolution	Any dispute resolution procedure needs to be agreed between the Parties to align with the process in the HIF Agreement.

Bolierplate	<p>Provisions to be included to cover:</p> <ul style="list-style-type: none">• confidentiality• intellectual property to remain with the owner but allow licence for use where necessary to this agreement• FOIA and EIR sharing of information to meet statutory requirements and process• Bribery Act compliance• communications and notices to agree the most efficient methods of communication• No provisions to allow for assignment or sub-contracting of any of the provisions of this Agreement• no partnership is to be established through this arrangement and any variations to this arrangement must be agreed in writing by both Parties• Jurisdiction and governing law to be in England
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Initial Outline Housing Delivery Statement

Prepared on behalf of Carlisle City Council

St Cuthbert's Garden Village, Carlisle

April 2020

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Appendices

- A - Overarching Programme
- B - Housing Delivery Programme

1. Introduction

- 1.1 In January 2017, Carlisle City Council (CaCC) successfully secured government recognition for a proposed growth area to the south of Carlisle, known as St Cuthbert's, through the Government's Garden Communities Programme. St Cuthbert's Garden Village (SCGV) required the delivery of the Carlisle Southern Link Road (CSLR) to provide the highways capacity for the proposed new development of over 10,000 new homes and community infrastructure. When connected with the adjoining M6 and A689, the CSLR will create the final piece of the trunk road orbital route around the city of Carlisle and in doing so will unlock the housing envisaged at SCGV.
- 1.2 In September 2018 Cumbria County Council (CuCC), in collaboration with CaCC, submitted a bid for £102m to the Housing Infrastructure Fund (HIF). The HIF programme is a £5.5bn capital grant funding programme established by the Ministry for Housing, Communities and Local Government (MHCLG) and administered by Homes England (HE). The HIF programme is designed to invest in key infrastructure projects that will unlock the development of new housing.
- 1.3 In February 2019 MHCLG announced that the CSLR had been successfully allocated £102m of grant, subject to agreeing the terms of a Grant Determination Agreement (GDA) and assuming a local contribution from the City and County Councils of £10m.
- 1.4 Hive Land & Planning (Hive) were appointed by CaCC to review and edit the HIF bid in late 2018 and have subsequently been retained to support the City Council through negotiation of the HIF GDA conditions and compiling the supporting documents and evidence.

2 Purpose

2.1 Through negotiation of the heads of terms, conditions and milestones of the GDA, HE requested a document that would demonstrate how the 10,325 new homes contained in the HIF bid would be delivered. Through discussion with HE the structure of this Outline Housing Delivery Statement (OHDS) was agreed.

2.2 The key definition within the GDA is

“**Housing Delivery Statement** means the statement for the housing delivery timetable including planning, site assembly, site marketing and profiling of Housing Output delivery as annexed at Annexure 3”

2.3 The purpose of the OHDS is to identify the various workstreams involved with delivery of SCGV and how those various workstreams will ultimately lead to the delivery of the Garden Village in line with the emerging masterplan and the commitments made within the HIF submission.

2.4 It has been agreed with HE that this OHDS will be provided at three key stages that align with progress of the GDA. These stages are:

1	Initial OHDS (this document)	Pre-Contract condition 5	Mar 2020
2	Interim OHDS	linked to tranche 4 conditions, regarding viability and deliverability	Sep 2020
3	Final OHDS	linked to tranche 5 conditions	Sep 2021

2.5 The three iterations of the OHDS will outline CaCC's approach to facilitating the delivery of new houses at SCGV. The OHDS will identify those areas where CaCC is confident that the market will deliver the new settlements and what measures are being taken to account for potential CaCC or public sector partner intervention in the market, where the market is not delivering in line with CaCC expectations within the HIF bid.

2.6 Within the conditional GDA there is provision for the phased release of funding to enable the key design, development and preparatory work for the new road to be undertaken prior to being in a position to let the contract for the construction of the CSLR. The phased release of funding is linked to the satisfaction of certain milestones within the conditions to the contract. The specific GDA milestones that will be satisfied through the three iterations of this document are

- Pre-contract condition 5 - Outline Housing Delivery Statement
- Tranche 4-4 - Land Value Assumptions/Viability (as contained within the Interim Housing Delivery Statement)
- Tranche 5-2 - Final Housing Delivery Statement

2.7 When agreeing the template for the OHDS with HE, discussions also took place about the stage at which the various workstreams were up to. HE have acknowledged that this initial OHDS will provide an indication of the workstreams that are presently underway and due to commence in the coming months. The greater certainty about which elements of SCGV will be delivered by the private sector, which may require public sector intervention and what the detailed trajectory for housing delivery may look like as a result of this, will be contained in the later iterations of the OHDS, once there is greater clarity about the final masterplan, the viability assessment of that final masterplan and once the current phase of the landowner engagement workstream has been concluded.

3 Baseline Review

- 3.1 The objective of this section is to provide a high-level overview of the numerous background documents and pieces of work which together form the building blocks for the more detailed, fine-grain work. Subsequent to this baseline work will be a comprehensive suite of information that demonstrates how housing will be delivered at SCGV in accordance with the HIF assumptions and in line with Garden Communities standards.

Planning - Carlisle Local Plan 2015 -2030

- 3.2 CaCC adopted the Carlisle District Local Plan 2015-2030 in November 2016. The plan allocates land for various uses, including housing development, across the district, setting out a strategic vision for growth to 2030.
- 3.3 The broad location of the SCGV site, Carlisle South, is identified for housing development in the Local Plan under Policy SP 3. The policy envisaged that the release and phasing of Carlisle South would be informed by a masterplan, incorporating an infrastructure delivery strategy. It was envisaged in the policy that to support the large-scale housing delivery there would be a requirement for primary and secondary schools, employment and retail sites, community facilities, open space, green and other infrastructure including highways and transport.
- 3.4 The Policy is seeking a comprehensive development with a coordinated approach and as such piecemeal or prejudicial applications would not be permitted. CaCC set out that they would commence the masterplanning work required in the early years of the Local Plan, given the scale and timescales for the delivery of the scheme. The Policy further commits that the masterplan will be embedded in a separate Local Plan which will have Development Plan Document (DPD) status. The current programme for the progression of the St Cuthbert's Local Plan shows the document being at submission stage in June 2021 with Examination in Public to take place between August and November that year.

Masterplan Stage 1 – Vision and, Concept Framework and Guiding Principles

- 3.5 The Stage 1 Masterplan for SCGV was commissioned by CaCC in November 2017 to provide a vision, set of comprehensive principles and concept masterplan for St Cuthbert's (essentially an initial options

appraisal and identification of a preferred, high level spatial option). The document was prepared by Gillespies, with a supporting consultancy team of WYG (Infrastructure), Hemingway Design (Urban Design) and Lambert Smith Hampton (Market Demand and Land). The document was published by CaCC in February 2019 following extensive analysis of constraints, issues and opportunities, stakeholder engagement and consultation

3.6 The St Cuthbert's Vision: was agreed as follows:

St Cuthbert's will provide connected villages embedded in stunning healthy landscapes within the world class setting of the Lake District National Park, the North Pennines Area of Outstanding Natural Beauty and Hadrian's Wall World Heritage Site. A cluster of distinct garden villages set in an attractive recreation, riverside and landscape setting will be well connected to Carlisle and the wider countryside. St Cuthbert's will actively promote healthy lifestyles providing integrated communities focussed around high quality homes, locally distinctive spaces and inclusive facilities. Innovation and technology will support attractive employment opportunities and exemplary low carbon living.

3.7 The Stage 1 Masterplan provided a robust basis on which the more detailed technical work and ultimately a masterplan framework (referred to as masterplanning stage 2) could build upon. One of the key recommendations from the Stage 1 study was the need to engage with landowners on an ongoing basis, to ensure deliverability was a central focus going forwards.

3.8 Supporting the delivery of the vision are Nine Guiding Principles, which underpin the Stage 2 emerging masterplan framework and are intended to guide the future development of the homes and neighbourhoods in St Cuthbert's.

- Principle 1: Start with the park
- Principle 2: Locally Distinctive
- Principle 3: Quality Homes and Lifetime Neighbourhoods
- Principle 4: Community Focussed
- Principle 5: Innovative Employment
- Principle 6: Healthy Environments
- Principle 7: Smart and Sustainable Living

- Principle 8: Integrated Sustainable Transport
- Principle 9: Exemplary Delivery and Stewardship

Masterplan Stage 2 – Baseline Report, Options Development and Identification of Preferred Masterplan Framework Option

- 3.9 A procurement exercise was run in late 2018 and early 2019 to identify a team to deliver the stage 2 masterplan work with ancillary deliverability advice, with ARUP appointed, supported by Hive. This work will build on the conceptual findings of the stage 1 Masterplan and provide greater strategic detail, in the form of a masterplan framework for St Cuthbert's, regarding the scale and location of development and the proposed location of the residential, commercial, community facilities and green and blue infrastructure across the Garden Village. The outcome of the Stage 2 masterplan is to be a clear strategic framework, identifying key land use allocations; land use budgets identifying the total quantum of development by type in each of the settlements; key phasing and density proposals; and strategic infrastructure information. In addition the framework will set out design guidance to inform the design response at parcel and block level, together with a policy requirements section advising on the relevant planning policies that will be needed in the DPD, in order to inform and guide delivery.
- 3.10 In August 2019 Arup produced their Baseline Report as an early stage output from their commission. The purpose of this was to understand the characteristics of the study area which underpins the placemaking and spatial framework process. The baseline report encompassed the following sections:
- Key Drivers and Principles
 - Technical Studies
 - Constraints and Opportunities
 - Land Budget – initial thoughts
 - Case Studies
 - Next Steps

- 3.11 Following completion of this baseline report Arup have completed the Initial Options Development phase, enabling extensive stakeholder, landowner and public consultation to take place on three Draft Masterplan Framework options. The options were largely received very positively, with significant interest from the public, landowners and consultees. The development of a preferred option to inform the Final Masterplan Framework is underway at the time of writing and will incorporate the feedback on the masterplan options received from the public consultation process.
- 3.12 At the time of this report Arup have a preferred masterplan option which is currently undergoing a detailed technical review to ensure the final proposed masterplan framework incorporates, drainage, highways, ecological and other considerations as required in the brief for the work.
- 3.13 The draft preferred masterplan framework is due to undergo public consultation in summer 2020 prior to the production of the final masterplan and accompanying report in August 2020. The preferred masterplan framework option will underpin the DPD for St Cuthberts with work having already commenced on its production including consultation on some of the early regulatory stages.

Viability Assessment

- 3.14 In order to develop a preferred delivery approach a considerable amount of work was undertaken by Carlisle City Council, and their appointed consultants Hyas Associates, GL Hearn and Lambert Smith Hampton as part of the Stage 1 Masterplan work and initial HIF submission, to develop an understanding of the viability constraints and opportunities for the delivery of St Cuthbert's. This involved the production of a high-level schedule of strategic infrastructure requirements necessary to support the scale of development proposed. In addition, work was undertaken to understand the land ownership constraints and opportunities across the study area and this included very early and on-going dialogue with key landowners, developers and other potential delivery partners to test their appetite for developing the Garden Village, individual aspirations and expectations.
- 3.15 The Council has consistently acknowledged that viability considerations are relevant to all stages of St Cuthbert's development and in particular, during the preparation of the DPD given the revised emphasis of the NPPF which now requires frontloading of viability considerations during strategic plan making. Equally given the timescales for the delivery of St Cuthbert's it is also acknowledged that there will be a

need to continually develop, test and refine the viability work as the project moves towards the delivery stages.

- 3.16 In parallel to the work of Arup on the masterplan framework and Hive's commission on landowner engagement, Aspinall Verdi (AV) have been commissioned by CaCC to progress the established baseline work on viability. Their instruction is to analyse the viability of the emerging and final masterplan framework options and provide feedback into the process to inform the development of the final masterplan framework. This work will further bolster the deliverability credentials of the Garden Village and support the future Local Plan allocations and policy process.
- 3.17 In running this commission in parallel with the Masterplan Framework commission, it will ensure that viability of the preferred scheme is one of the core considerations in formulating the final masterplan framework. It is also intended to inform discussions with landowners and consider how their aspirations on value aligned with the emerging anticipated land values resulting from the viability workstream.
- 3.18 The second element of AV's commission is to undertake district wide baseline work to inform the potential introduction of a Community Infrastructure Levy (CIL) by the City Council. This work will be key to the formulation of the land value capture strategy and the recovery of HIF monies for reinvestment in housing.
- 3.19 A chart comparing how the current masterplan options and viability assumptions compare with those made at the time of the HIF submission is contained in *Section 9 – Land Value Assessment*.

Landowner Engagement

- 3.20 Landowner engagement and relationship building has been a priority throughout the whole masterplanning process, commencing at the Stage 1 Concept commission, where Lambert Smith Hampton worked closely with the Council to understand the landownership map and the aspirations of individual parties. This workstream is critical to demonstrating deliverability of the Garden Village, particularly given the lack of landownership by the City Council and the wider public sector, meaning that managing the aspirations around land value with landowners, to ensure recognition of the need provide relevant strategic infrastructure and quality of environment became a priority. In Spring 2019, Hive were procured to support the City Council in continuing and progressing their landowner engagement workstream. This

was to build on the engagement started at Stage 1, to provide further key information about landowner support, engagement and potential barriers to the delivery of the Garden Village.

- 3.21 The landowner engagement was undertaken through a series of structured group events and one to one sessions to illicit key information and ensure the landowners were kept abreast of progress with SCGV. This workstream also incorporated elements of wider stakeholder engagement including key housebuilders.
- 3.22 This workstream was undertaken in parallel to the Stage 2 Masterplan and viability work and the emerging findings are being fed into the masterplanning process on an ongoing basis.

4 Summary of Progress

4.1 The delivery of a housing growth area of the scale of SCGV requires a collaborative partnership working approach to progress numerous workstreams by a large team with a broad range of specialisms. CaCC are managing and co-ordinating the various internal teams and external consultant appointments to progress the core policy and feasibility related building blocks, to enable and manage future planning applications and the subsequent delivery of the settlements within the Garden Village.

4.2 The various workstreams, lead parties and status are identified here

Workstream	Lead Party/Consultant Team	Status
GDA Negotiation	CaCC supported by Hive Land & Planning	Advanced Stage – Anticipated sign off April 2020.
Masterplanning	Arup	Advanced Stage – Anticipated completion August 2020.
Further infrastructure design and costing	Arup/ Turner & Townsend	To be commissioned in April 2020 coinciding with sign off of preferred masterplan option.
Interim Land Release Supplementary Planning Document	CaCC	To be commissioned in April 2020 with anticipated adoption December 2020
Local Plan Production	CaCC	Advanced Stage
Landowner/Stakeholder Engagement	Hive Land & Planning	Advanced Stage – Current phase aligned with Stage 2

		Masterplanning to conclude in August 2020.
Viability	Aspinall Verdi	Advanced Stage – current phase aligned with Stage 2 Masterplanning to conclude in August 2020.
Design Code	ARUP	To commence in 2020 linked to development of final masterplan framework
Strategic Design Guide Supplementary Planning Document	CaCC	To commence in 2020 linked to development of final masterplan framework
Sustainability and Habitat Regulations Assessments	Aecom	Advanced Stage aligned to Stage 2 Masterplan (Final Report August 2020) and SCGV DPD.
Housing Delivery and SCGV Stewardship Models	CaCC supported by Hive and Hyas with legal appointments to be made	Underway
General Project Support	Hyas Associates	Ongoing – contract in place across 2020/21
Market Engagement	Hive Land & Planning	To be commenced in Spring 2020

4.3 Substantial progress has been made in the following areas

Planning and delivery of the CSLR

- 4.4 A planning application for the CSLR was submitted by CuCC on 9th October 2019. The application was validated on 14th October 2019 and is due to be determined by Committee in Spring 2020.

Progression of SCGV Local Plan

- 4.5 Policy SP3 in the adopted Carlisle District Local Plan 2015-2030 embeds the concept of land to the south of Carlisle (St Cuthbert's) being identified as a broad location for growth for a major mixed-use development focussing on housing. The policy makes a commitment that the development of the area will be in accordance with a masterplan that will be approved as a Development Plan Document (DPD) and that piecemeal or unplanned development proposals within the area which are likely to prejudice its delivery including the infrastructure required for the area will not be permitted.
- 4.6 The Council's adopted Local Development Scheme (LDS) sets out the key milestones for the preparation of the St Cuthbert's Local Plan. It states that the Local Plan will:
- define the scale, nature and boundaries for growth;
 - deliver against established garden village principles;
 - provide a framework to inform phasing;
 - provide a framework against which future planning applications will be assessed;
 - identify the infrastructure needed to support development.
- 4.7 Work is progressing well under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations. In Spring 2018, consultation was held on the scope of the Local Plan and the issues that it should seek to address. Robust and ongoing stakeholder engagement continues to be a key part of the process, most recently (Sep 2019) with the consultation on the scope of the policies and the objectives forming part of the St Cuthbert's Local Plan. The next stage entails drafting policies to help deliver the spatial aspects of the masterplan, as well as to give strategic direction to such matters as phasing, infrastructure delivery, achieving low carbon, self and custom build housing and environmental net gain.

Other detailed matters will be guided through the production of a series of Supplementary Planning Documents.

- 4.8 Discussions are ongoing with the Planning Advisory Service (PAS) to provide additional external support on policy development including via a peer review challenge type session to aid their robustness, drawing on PAS's wider national experience to do so.

Masterplan

- 4.9 The Stage 1 Masterplan was led by Gillespies and identified the core principles and potential location of and scale of the new settlements within the redline SCGV area. This work incorporated considerable review of baseline information to identify those settlement areas best suited to accommodate new development. The Stage 1 masterplan was published in February 2019.
- 4.10 The Stage 2 masterplan is being led by Arup with delivery support from Hive. Following their procurement in early 2019, the team have undertaken extensive work to build upon the baseline conceptual work contained within the stage 1 Masterplan to evolve, refine and add further layers of detail to that which was available on commencement of their commission. During late summer/early Autumn 2019 Carlisle City Council undertook a comprehensive public and stakeholder consultation exercise that incorporated both formal, well publicised public events and one to one meetings and ongoing engagement with key landowners and other stakeholders.
- 4.11 The responses from the public and stakeholder consultation events have been summarised and analysed and are now being incorporated into the final preferred option. Rather than the preferred masterplan simply being the most popular of the three masterplan options that were subject to consultation, the preferred option will incorporate elements of all 3 masterplan options together and will incorporate observations and suggestions made through the additional feedback received through the consultation process.
- 4.12 The development of the preferred option is due to conclude in March 2020, with the technical studies to support that option to run in parallel. The report that summarises the masterplan and details its core principles is due to be completed in March 2020. The final masterplan framework is due for further public consultation throughout June and July 2020, prior to the issue of the final report in late summer 2020.

- 4.13 The key dates regarding the Masterplan/Local Plan are contained within section 14 and the overarching programme at Appendix A.

Viability Assessment

- 4.14 Aspinall Verdi (AV) were appointed in Spring 2019 to appraise the masterplan options, provide viability input to the masterplanning process and undertake a detailed viability appraisal on the final preferred masterplan. At the time of writing AV have undertaken their viability appraisals on the 3 masterplan options that were subject to public consultation. These appraisals have provided valuable feedback, not only on the 3 masterplan options themselves, but also on the criteria which have the biggest impact on the viability of the scheme. This information has been fed back into Arup for consideration as part of the wider feedback from the public and stakeholder consultation that will inform the preferred masterplan option. The key figures from the viability appraisal of the three masterplan options are summarised here :

Appraisal Data	Parameters from options 1-3
No of units	10,325
Gross Land Take (exc. green infrastructure) (Ha)	357.5 – 410.5
Gross Residential Area	255 – 304.5
Net Residential Area	204 – 243.6
Average Density for Gross Residential Area	34-41
Average Net Density	42-51
Total GDV (£m)	2,006 – 2,109
Build Costs (£m)	1,082 – 1,112
Site Specific s106 (£m)	72.275

Strategic Infrastructure (£m)	103.25
Repayment of Councils investment (£m)	10.325
Residual Land Value (£m)	34.983 – 72.631
RLV (£/gross acre)	38,000 – 72,000
RLV (£/gross ha)	94,000 – 177,000

- 4.15 The data included in the table above has been fed back to Arup for consideration as part of the drafting of the final masterplan. AV's report on the masterplan options includes detailed commentary on why the residual land value differs between the options and which factors have the biggest influence on the viability of the scheme.
- 4.16 The conclusion of the viability assessment of the final masterplan will be a key stage in understanding whether landowner aspirations on value are likely to be met and therefore whether a more interventionist approach will be needed across the Garden Village.
- 4.17 The conclusion of the masterplan and the viability assessment will necessitate a further round of landowner engagement to explore in more detail with landowners the outcome of these two workstreams, how they impact on their landownership and to further understand what appetite they have for development in light of this information and the likely next steps.
- 4.18 The SCGV Recovery Strategy will deal with the treatment of the proceeds from the sale of land owned by the CuCC at Cummersdale. CaCC do not presently have any significant landholdings within SCGV.

5 Site Assembly

Landowner Engagement

- 5.1 Hive were appointed to undertake the landowner engagement work to support the masterplan development stage. As CaCC do not have any significant landholdings within the red line of the Garden Village and CuCC have only one parcel in the Cummersdale area, there was an early recognition by the City Council of the need to undertake a comprehensive stakeholder engagement process, primarily focussed on landowners.
- 5.2 The landowner engagement work has intentionally provided various forums over an extended period, each with differing emphasis to maximise the potential for engagement and feedback. On 3rd July 2019 CaCC hosted an invitational event for all landowners whose land was touched by the proposals, as well as developers, promoters and agents. The 3rd July event was intended as an update to all stakeholders to ensure they were aware of the progress being made and of the opportunities they would have to engage in it. The event, which was extremely well attended, also provided a forum to continue to emphasise the key messages around landowner collaboration, comprehensive, rather than piecemeal development, the expected quality standards associated with a garden village and their potential impact on land values.
- 5.3 The second series of formal engagement events under this workstream took place in November 2019, when the key landowners in each settlement were invited to attend a workshop. The five sessions were each focussed on the five potential settlement areas of
- Carlisle Southern Fringe,
 - Carleton,
 - Cummersdale,
 - Durdar West, and
 - Durdar East (incorporating Brisco)

- 5.4 Due to the size of Durdar it was agreed that an arbitrary split either side of Scalegate Road would break the landowners into more manageable groups.
- 5.5 By bringing the landowners together on a settlement basis it enabled CaCC to undertake more focussed engagement process and more direct contact with the landowners. These settlement sessions provided a further opportunity to reinforce the key messages and objectives of SCGV and enabled a continued fostering of those key relationships between adjoining landowners within a proposed settlement area.
- 5.6 Hive and CaCC have offered key landowners one-to-one meetings to discuss their concerns and proposals in a more confidential setting. These one-to-one meetings have been ongoing throughout the course of this workstream and the offer to key landowners for direct dialogue with the City Council will remain in place for the foreseeable future. These one-to-one meetings have further reinforced the view that, at this stage, landowners in general are supportive of the proposals and keen to promote their land for inclusion.
- 5.7 The output from this workstream will be captured in an interim and final landowner engagement report. The interim landowner engagement report was produced in January 2020 and highlighted the work undertaken to date and the key emerging opportunities and potential areas of future focus, which are summarised below. The final landowner engagement report will follow production of the final masterplan framework report and the detailed viability assessment on this masterplan. In timing the final landowner engagement report in this way, it will enable the report to incorporate commentary on the potential landowner groupings necessary to deliver the Garden Village and specific commentary on what is known about those landowners. By identifying the potential land values associated with the preferred masterplan, the final viability assessment will also help the final landowner engagement report to be more confident on the potential for landowner driven solutions and conversely the scale of public sector intervention required.
- 5.8 The key observations contained in the Interim Landowner Engagement Report are:
- Virtually all key landowners have expressed a willingness to consider their land for development;
 - There have been no objections raised to the principle of landowner collaboration and no obvious barriers identified to collaboration;

- All landowners have been receptive to the principle of signing up to a Memorandum of understanding (MoU) with the City Council;
- The key landowners in Cummersdale are all in regular discussion and showing positive early signs of collaboration;
- The major landowner in Carleton is taking professional planning and development advice from Savills in Manchester and considering the logistics of relocating their farming business to enable development to proceed;
- There is only one landowner who is known to have a contract in place with a housebuilder. Subject to the allocation of the land concerned, the land on the Carlisle Southern Fringe could be an opportunity to demonstrate early delivery with a developer known for a quality product and a commitment to the Carlisle area;
- There are a considerable number of landowners across both East and West Durdar and the potential for collaboration amongst landowner groupings and their willingness to work in those groupings will require more time to fully understand;
- The level of active engagement and understanding of the principles and objectives of SCGV varies from settlement to settlement;
- Many landowners have had initial contact from developers and promoters about potential deals on their land;
- Landowners and developers are keen to understand what the additional quality requirements are for SCGV and what the cost/land value implications of these costs might be; and
- Many of the landowners need to understand what land is contained in the final masterplan and what the likely viability position looks like, before formalising their collaboration arrangements with neighbouring landowners and committing their land to the delivery of the Garden Village.

Land Acquisition and Disposals

- 5.9 At the time of writing there is only one landowner with a key landholding within SCGV who is understood to have a contract in place with a housebuilder. The housebuilder concerned is believed to have an option agreement on land within the Southern Fringe of the existing urban boundary of Carlisle. It is understood that there are requirements from numerous national and local housebuilders to obtain a legal interest within the Garden Village, but none are believed to have secured a position as yet. There is also anecdotal evidence that significant national strategic land promoters are also exploring potential opportunities in the Garden Village area.
- 5.10 Hive have been in discussion with Homes England about a potential strategic land acquisition in the Garden Village area, through the facilitation of discussions with key agents representing major landowners. Hive have facilitated discussions with key landowners and their agents in both Cummersdale and Carleton. These discussions will continue with a view to supporting a potential acquisition and securing a further public sector stake in the delivery of the Garden Village.
- 5.11 A section on the overarching project programme is contained within section 15 and an overarching project programme is appended to this report. These documents identify when development is anticipated to come forward. There will be an increased focus on land transactions through future iterations of the OHDS and a re-evaluation of the programme to reflect the findings.

6. Proposed Phasing Strategy

6.1 The proposed phasing strategy will need to follow on from the completion of Arup's Stage 2 masterplanning work. The final masterplan report is programmed for completion in Summer 2020. There will be a number of factors which contribute towards the phasing strategy. These include :

- Reliance on the CSLR;
- Proximity to capacity within existing highways, utilities and drainage infrastructure;
- Timing of highways, utilities, and drainage infrastructure upgrades, where necessary;
- Market take up rates and providing choice within the market;
- Ability to comply with housing delivery targets;
- The identification of potential early applications that accord with the principles of the masterplan and design guidance;
- The creation of place and relationship with existing settlements; and
- The ability for the landowners and housebuilders to deliver the site.

6.2 The agreement over the phasing strategy will have regard to numerous considerations. A critical consideration will be any sites potential to facilitate the delivery of housing in accordance with the forecast housing delivery targets contained within the HIF submission. This is supported by the landowner and developer engagement work that is underway to identify those opportunities where it is felt that landowners are suitably prepared and have the necessary professional support to deliver, along with the intelligence obtained about the opportunities that housebuilders and developers are eager to progress as an early phase.

7. Infrastructure Delivery Plan

- 7.1 As part of the project governance arrangements there is a well-established Infrastructure and Viability Project Group in place, bringing together infrastructure providers to help quantify required investments in new and/or upgrades to existing facilities. Key infrastructure providers, including for example United Utilities, have been elevated to the SCGV Strategic Board. There are strong relationships with others with dialogue having been ongoing since the development and adoption of the wider Carlisle District Local Plan back in 2016.
- 7.2 A clear infrastructure schedule for the Preferred Stage 2 Masterplanning Option is a defined output of the work Arup are leading on, providing clarity on costs and phasing to support progression of a robust Infrastructure Delivery Plan in parallel to the draft masterplan framework. A number of areas have been identified as requiring further work including for example the extent of and costs associated with providing strategic green infrastructure. Aspinall Verdi have sub contracted Turner and Townsend to help identify and review infrastructure costs as part of the more detailed assessment of Arup's preferred option.

8. Settlement Profile and Design Code

- 8.1 The Stage 1 Masterplan identified distinct potential residential settlement areas within the SCGV boundary. These settlements were largely based on the physicality of the different areas and how the different areas were best suited to different forms and quantum of development.
- 8.2 Stage 2 of the masterplan developed these ideas and presented three development options across the settlement areas. Each option provides for varying levels of residential units and commercial space (including social, leisure, retail and education provision) across each settlement area. The land take for sports pitches, play areas and additional green / blue infrastructure in each settlement area is also identified within the stage 2 options document, although the full extent of strategic green infrastructure and other land to be brought into the scheme will be more precisely quantified at the preferred option stage.
- 8.3 A summary of each settlement area and the residential / commercial development potential identified in each is set out below.

Cummersdale

- 8.4 The Stage 1 masterplan identified that the size and scale of Cummersdale provided a good opportunity for mixed use development with relatively flat areas of land adjoining the existing village of Cummersdale. The landowner engagement work identified that there were 8-10 key landowners and the relative lack of reliance on the CSLR, initially at least, is considered to provide scope for early phasing and delivery. The Stage 2 masterplan sees development in Cummersdale in all 3 options. The options suggest a land area in Cummersdale to be developed of between 21 -31 ha, bringing forward between 850 -1100 residential units and 5,000 sqm of commercial space.

Durdar

- 8.5 The stage 1 masterplan envisaged that Durdar would represent a predominantly new settlement, with the opportunity to create a heart or centre to the existing village, which at present lacks any such feature. As a new settlement it would give the opportunity for smart and innovative design features, such as the inclusion of Modern Methods of Construction. It was recognised that there is also the opportunity for a

scale of development which supports a larger district centre and allows for multiple sustainable neighbourhoods.

- 8.6 It is likely that that delivery will need considerable landowner collaboration and / or some public sector intervention as there are a large number of landowners in the area, who may have greatly varying land interests. The Stage 2 masterplan sees development in Durdar in all 3 options. The options suggest a land area to be developed of between 171 – 214 ha, bringing forward between 7,250 – 8,550 residential units and between 10,000 and 15,000 sqm of commercial space.

Carleton

- 8.7 The Stage 1 masterplan concluded that Carleton represents an opportunity for early development with good access to and perceived latent capacity within existing services and facilities. However, it is topographically challenging. The relationship between landowners will be key to ensuring smaller parcels are deliverable. The main landowner is known to be pro-development and has planning and development advisers in place. The area does offers scope for early delivery due to lack of reliance on the CSLR, initially at least, should the landowner collaboration be forthcoming. The Stage 2 masterplan sees development in Carleton in all 3 options. The options suggest a land area to be developed of between 24 – 26.5 ha, bringing forward between 900 – 925 residential units and 5,000 sqm of commercial space.

Brisco

- 8.8 The Stage 1 masterplan concluded that the scale of development at Brisco would be limited by the conservation area status, landscape and visual amenity constraints. However option 2 of the Stage 2 masterplan suggests that a limited number of high-quality homes to the north and south of Brisco could enhance character and the overall offer of the SCGV. The option for development in Brisco suggests 35.5 ha land could be developed, bringing forward 1,075 residential units with no provision for any commercial space.

Carlisle Southern Fringe

- 8.9 The urban southern fringe of Carlisle City Centre is identified for potential development in one of the Stage 2 masterplan options. The development of this area, which acts as a green 'buffer' in the other

options would reduce the sense of separation between SCGV and the existing city and this needs careful consideration. However, there is one known developer with a legal interest over land within this area. They have demonstrated a continued willingness to engage throughout the process offering positive signs for potential early delivery within the Garden Village area, should this area become part of the preferred option. The stage 2 masterplan option for development in this area suggest 26.5ha of land could be developed, bringing forward up to 954 residential units and 5,000 sqm of commercial space.

Design Code

- 8.10 The production of a Design Code was included within the brief for the commission Arup are undertaking. This work is programmed for the later stages of their commission to run in parallel with the refinement of the preferred option for the masterplan and should be undertaken during March and April 2020.
- 8.11 Within the brief there were various stated “Areas of key importance” which included
- local centres;
 - interface between education and community provision and homes;
 - relationship to The Greenway and public open space and
 - retaining some connection with the rural edge.
- 8.12 Neighbourhoods will be identified and their characteristics, orientation points for wayfinding, density and examples of architectural approach. Design guidance will also include the identification of material palettes that resonate with the local physical context and the morphology of existing village settlements.

9. Delivery Model Options

9.1 As a Garden Village, there is unanimous recognition by the Strategic Board and national expectation that St Cuthbert's is a unique and high-quality development, that has three high level aims:

- The delivery of high-quality homes and jobs needed in the area over the long term to enable the growth ambitions of Carlisle;
- The comprehensive provision of infrastructure for transport and telecommunications, education, health, community and cultural infrastructure required to create a high quality, sustainable community; and
- Ensuring the creation of quality places including the conservation and enhancement of the natural and historic environment and landscape, together with an affective long-term approach to local stewardship.

9.2 It is recognised that to implement these ambitions, in addition to a robust planning framework, there needs to be a dedicated focus on delivery. The Strategic Board has over the last 2 years, undertaken work to examine three high level, alternative options for delivery:

- by the private sector under traditional approaches to such development;
- via some form of public/private partnership/joint venture; or
- via a public sector led delivery structure.

9.3 In the case of St Cuthbert's, the requirement to bring forward the scheme in line with 'Garden Settlement' principles; the multiplicity of land ownership; the scale and complexity of infrastructure delivery; and importantly, the fact that there is currently no master developers associated with SCGV, mean that an entirely private sector led approach to delivery, may not be realistically achievable.

9.4 The Strategic Board have therefore been exploring a range of delivery mechanisms under options 2 and 3 above, that could be appropriate to SCGV. Several national case studies have been examined and relationships have been developed with other garden settlements, most notably North Essex to learn from their experiences around such matters to date. CaCC and the Board have also been in regular dialogue

with MHCLG and Homes England to discuss relevant options, with MHCLG visiting Carlisle on a number of occasions to review project progress. The Board have also closely monitored and examined the recent changes in the New Towns Act and Development Corporation Reform Technical Consultation (October 2019), submitting detailed comments on both.

- 9.5 CaCC have progressed work in earnest to create an overall business case for public sector intervention, that will then lead to a decision as to which specific delivery model option is relevant and most effective in achieving the stated aims.
- 9.6 In January 2020, CaCC discussed with senior representatives of MHCLG and HE the City Council's aspirations for and exploration of potential delivery vehicles including a Locally Led Development Corporations (LLDC). In particular, the discussion focussed on the City Council's (with the backing of the Strategic Board) intention to submit an Expression of Interest to the recently launched New Development Corporation Competition. This intention was welcomed by MHCLG and it was further agreed that conversations between the three parties will be ongoing towards the submission of an Eol over the spring this year. The Eol will set out the key stages to be followed in detail by CaCC in undertaking a full delivery mechanism options appraisal, leading to an identified and preferred vehicle, together with the support required to undertake this work.
- 9.7 As part of developing the Eol, CaCC are already in detailed, initial discussions with a number of highly qualified and experienced law firms to determine the most appropriate delivery model for SCGV. These discussions took place through a series of workshops held in November 2019, to explore Locally Led Development Corporations (LLDC) and other potential delivery models that would enable CaCC to take a more interventionist approach, in the event the private sector does not deliver in line with Garden Village aspirations and timescales. All of the law firms consulted are in agreement that it would be prudent for CaCC to await the completion of a number of the other ongoing workstreams (relating to viability, strategic infrastructure and land use frameworks in particular) prior to settling on a preferred delivery model, as clarity of purpose is a critical element of the decision making and will only arrive after the next stage of masterplanning work is largely complete.
- 9.8 Given the long timeframe for delivery of St Cuthbert's, the law firms consulted highlighted the possibility that there may be several different types of interventions or delivery models required, both in terms of

delivery timescales and site geography. Any model for delivery should be based on local objectives and driven by a clear evidence base of what is needed. It is perfectly likely (and expected) that some elements of the new community can be delivered with very little if any public sector intervention, other than appropriate planning and design controls. Other areas of SCGV however, will be harder to bring forward without intervention due to factors such as landownership; need for strategic infrastructure; physical constraints etc. It will therefore be critical to ensure a clear delivery strategy is in place from the outset, to allow legal provision and public sector intervention to be proportionate and not hindering the requirement for early delivery, whilst also securing quality and long-term sustainability. Ultimately, flexibility will be required in any delivery mechanism/s, to allow evolution over time to meet the needs of St Cuthbert's as it grows.

- 9.9 All law firms consulted felt that the work to date, encouraging initial collaboration between landowners and progressing relevant MOUs created a very positive foundation for delivery. A strong planning framework was also determined to be important and is being progressed through the Masterplanning and DPD work. The law firms considered how CaCC may put the necessary safeguards in place to ensure any early planning applications can incorporate the key objectives of the Garden Village, through interim planning policies, such as early supplementary planning guidance. Active consideration is therefore being given to the preparation of interim guidance regarding design principles and developer contributions, both of which are key elements to comply with the Garden Village status and requirements of the HIF funding. This will potentially allow early phases of development to come forward as a flexible, long term delivery mechanism is evolved and implemented.
- 9.10 A legal brief is now being prepared to form the basis for more detailed legal advice on potential delivery models, to align with the progression of the masterplanning and DPD work.
- 9.11 In addition, CaCC have commissioned Aspinall Verdi to prepare an initial short paper that will focus on the viability and deliverability aspects of any potential CPO and how such powers may apply to the delivery of St Cuthberts.

10. Land Assembly

10.1 In order to deliver the proposed settlements across SCGV there is a need to bring various adjoining land interests together to ensure development can progress on a comprehensive basis on a commercially viable scale, rather than one dictated simply by land ownership boundaries. There are various parties who can play a role in the land assembly process. This section of the OHDS considers the role of each group and the progress made to date.

Landowners

10.2 Through the work that Hive and CaCC are doing on landowner engagement, there is a clear and consistent message being given to landowners that they will need to collaborate with one another. This is seen as the early stages of the land assembly process. Through the landowner settlement sessions held in November 2019, landowners were talked through the high level principles of collaboration and equalisation agreements, as one possible mechanism through which land interests can be combined in a manner that applies an equal value to all land, irrespective of whether that land will be required for housing, employment, local centres, green or blue infrastructure or any other element of the proposed settlements. Through applying an equalisation approach there is a greater chance of delivering comprehensive development across the settlements, with the full range of housing, employment and community infrastructure.

10.3 At the time of writing there have been no objections raised to the principle of collaboration amongst landowners and in the case of Cummersdale, positive signs of progress, co-operation and the initial conversations between landowners around collaboration having commenced.

10.4 In order for there to be sufficient clarity for landowners to really understand who they need to collaborate with and the extent of the landownership interests that need including within any collaboration agreement, there are various bits of information required. Once the final masterplan has been approved and Arup have identified a more accurate boundary of the land required to deliver each settlement, the likely landowner groupings will become more apparent. The landowners will then be in a position to start formalising these collaboration arrangements. Landowners are also aware of the viability workstream that

is also underway. Some landowners may wish to understand the outcome of the viability work and what that means about the potential value of their own land interests.

- 10.5 Hive and CaCC have been clear with all landowners that piecemeal development that doesn't contribute towards the comprehensive delivery of the settlements will be resisted. This message is intended to reinforce the emphasis on collaboration in order to secure the full development of all uses identified for SCGV.

Promoters, Developers and Consortia

- 10.6 Although landowners are being encouraged to undertake the early work to demonstrate to the development industry that they are open for business and working towards delivering sensible development parcels to the market, it is likely that some of the work needed to combine land interests will be done by the development industry. Those landowners who do collaborate to create commercially appealing development parcels, that are able to deliver comprehensive, mixed-use development will be putting themselves in an advantageous position when it comes to attracting private sector interest. However, it should be assumed that some landowners are unwilling or unable to undertake the work necessary to tie land interests together in a formal manner and this role is left to others, including the development industry.
- 10.7 There is anecdotal evidence of interest in obtaining a foothold in SCGV from local and national housebuilder and strategic land promoters, some of which have not previously developed in Carlisle before. There is also reported to be a consortia of large housebuilders who are working together to explore opportunities in the Garden Village. This is in part believed to be a response from the industry to the City Council's requirements for comprehensive rather than piecemeal development.
- 10.8 Developers and promoters will be very familiar with the role of land assembly and the need to bring various land interests under their control through one of a number of legal agreements. Depending on whether it is a promoter or a developer and how the commercial negotiations between them and the landowners progresses there is likely to be a legal agreement in the form of an option agreement, promotional agreement or conditional contract. Any of these agreements could have the desired effect of bringing numerous land interests under the control of a single party or consortia.

- 10.9 It is also possible that a promoter or speculator could seek to bring together a number of land interests through a freehold acquisition of land, although this is more likely to be an approach adopted by a public sector body or possibly a registered provider in acquiring land.
- 10.10 CaCC will continue to request that landowners are mindful of not signing up to agreements with developers that contain unreasonable land value expectations. Such legal agreements are likely to lead to further site specifically viability challenges and resistance from the Local Planning Authority.

Public Sector Bodies

- 10.11 Homes England have been engaged about the potential for them to acquire a strategic land holding within the Garden Village. Homes England are embedded within the SCGV governance structure, through the Project Board, and also sit on the Land & Delivery Working Group. This ensures their input is received at both a strategic and operational level. Hive have brokered a number of discussions between Homes England and landowners or their agents within SCGV. Although there have not been any land acquisitions completed by Homes England, beyond the Carleton Clinic site, opportunities will continue to be monitored.
- 10.12 There are numerous advantages to a potential acquisition of land by Homes England or any other public sector body. Some landowners will prefer a straight-forward freehold disposal of land that public sector bodies are more likely to be able to deliver. At the time of writing the only publicly funding organisation with the finance and remit to acquire land is Homes England, although the potential for a greater role by other public bodies will be monitored on an ongoing basis.
- 10.13 Through the workstream that is looking at the role of the Council backed delivery vehicle, there may be a more prominent role for a new publicly controlled vehicle to either acquire land by private treaty, acquire land by compulsory purchase or act as a strategic land promoter.

Registered Providers

- 10.14 The potential role of Registered Providers (RPs) is one that will be explored under the market engagement workstream. Given RPs remit around providing affordable housing, their ability to invest in areas for the long term and attract grant funding, there will be a substantial role for RPs to play. The market engagement

workstream will seek to explore what that role might be and how ambitious the RPs are willing to be.

The potential role of the RP could include

- Developers of housing and community infrastructure schemes;
- Long term managers of housing transferred through s106 and other means,
- Strategic landowners and promoters, and
- Stewards of some or all of the green and blue and/or other community infrastructure.

11. Potential Funding Sources

- 11.1 Should further public sector funding be required to deliver infrastructure necessary for the creation of SCGV, CaCC and CuCC will need to appraise the options available at that point in time. Through SCGV having Garden Community status, CaCC will monitor the funding streams available to Garden Communities and consider the alignment of any new programmes with the requirements of SCGV at that stage.
- 11.2 Both Councils have very strong relationships with the Cumbria Local Enterprise Partnership (LEP), who are represented on the SCGV Strategic Board, and will consider how their economic growth objectives and funding streams can be utilised to deliver SCGV. The LEP's Local Industrial Strategy and the Borderlands Inclusive Growth Deal, both recognise the importance of SCGV and both aim to lever in significant investment into the wider area.
- 11.3 CaCC are key partners in the Borderlands Inclusive Growth Deal. This initiative looks to secure economic growth across the areas of the North of England and the South of Scotland that adjoin the border between the two nations. Potential funding opportunities will be monitored to establish whether funding can be obtained to further the ambitions of SCGV whilst complying with the objectives of the Borderlands project.
- 11.4 CaCC are exploring making a submission to the New Development Corporation Competition. CaCC have met with MHCLG officers to discuss the funding programme and what a potential submission from the City Council might incorporate. CaCC are working up a proposal to secure funding to explore the potential delivery models in greater detail, through this fund CaCC's proposal is targeting a May 2020 submission.
- 11.5 Consideration will also be given to the capital funding programmes of both Councils and whether funding can be made available to further the aims of the Garden Village.
- 11.6 The major utilities providers are engaged in dialogue with the City and County Councils about SCGV. Each body has its own statutory requirements and funding streams and these organisations will be closely monitored to establish whether the further infrastructure needed could be funded through these organisations.

- 11.7 Potential alternative funding sources will be considered in greater detail through the interim and final versions of the OHDS.

12. Modern Methods of Construction

- 12.1 A crucial part of delivering the proposed level of housing growth pursuant to the delivery of the CSLR is the build out rates associated with each of the settlements. Modern Methods of Construction (MMC) offers the potential to shorten the construction programme, overcome skills issues within the industry and deliver units to the market at pace.
- 12.2 Support for MMC is becoming more widespread within the development industry due to the acknowledged need for structural change within the housebuilding industry to address years of under supply. With greater acknowledgment of the need for this method, various forms and levels of pre-fabrication and methods of MMC have been developed and the industry has matured considerably over recent years. These are typically categorised into differing levels of off-site manufacture which includes volumetric which is entirely off-site to hybrid, panellised, and sub-assemblies on-site.
- 12.3 In recognition of the growing MMC industry, Knarebrough based Ilke Homes received a £30m investment in November 2019 from Homes England to open a new factory. This will enable Ilke to more than double their output capacity from 2,000 homes per annum to 5,000 per year over the next five years. Ilke have partnered with the Home Group to deliver new homes in Cumbria. Officers at CaCC have attended Innovation Village in Gateshead to explore the MMC houses on show and have been invited to visit the Ilke factory.
- 12.4 In 2016 Legal & General Capital opened the world's largest off-site housing factory in Leeds. Other key MMC companies include Urban Splash, Suzuki and Home Group. Home Group have partnered with Ilke Homes, Premier Modular Ltd and Simply Modular. The Gateshead Innovation Village showcases 41 different types of MMC products and underlines the growing appetite and investment MMC in comparable geographic regions to Carlisle.
- 12.5 Whilst delivery of a prescribed number of MMC units is not a core requirement of St Cuthberts, or the HIF conditions, CaCC recognise there is a good opportunity to work with developers to explore the incorporation and use of MMC as part of the delivery of SCGV, with the aim of increasing innovation, quality and pace of delivery. There is also the option of some element of MMC being sought through inclusion in the Design Code / Guide.

13. Long Term Stewardship of the Village

- 13.1 The long-term stewardship arrangements for SCGV are the subject of various workstreams. As part of the due diligence for a potential council backed delivery vehicle CaCC will also explore the potential for such a vehicle to act as long term steward for any green and blue infrastructure or other key community assets, that are not otherwise transferred to third parties, or adopted by the relevant statutory bodies.
- 13.2 There are a number of potential solutions to the long-term stewardship of the communal areas of Garden Village, with varying roles for the public and private sector. One potential solution will be the establishment of a specific management company (Man.Co.) A Man.Co. would generally be funded by service charge contributions from residents and would have a clear governance structure that included a board with key stakeholders, including resident representation.
- 13.3 The City Council will also give consideration to the adoption of the whole of the green and blue infrastructure within for management by the relevant City Council department along with all other managed parks and public open space. Given the constraints on Council funding and the competing pressures on limited public resources, this is likely to be the option of last resort.
- 13.4 CaCC will be progressing a workstream that looks into the long term stewardship across the Garden Village. This will partly be viewed from a legal structures perspective, but also from a capital and revenue cost point of view to establish a financially sustainable long term maintenance proposal.

14. Overarching Programme

- 14.1 A full project programme has been put together to illustrate the various workstreams that are underway and ongoing to deliver the Garden Village. A copy of the programme is contained at Appendix A. In addition to detailing when CaCC forecast to complete certain key milestones associated with delivering the project, the programme illustrates the relationship between the various workstreams and the inter-reliant nature of those workstreams. In setting out the workstreams in this manner, it allows for accurate forecasting and focus on mitigating the effects of any slippage throughout the process. The key milestone dates included within the programme are

Stage	Forecast Date
Bid to MHCLG Dev. Corp. Funding	May 2020
Viability Assessment – preferred masterplan option	May/Jun 2020
Masterplan – Preferred Option Consultation	Jun/Jul 2020
Masterplan – Final Sign Off	Aug 2020
Landowner Engagement – Final Report	Aug 2020
St Cuthbert's Local Plan – Consultation	Nov/Dec 2020
Adoption of 2* SCGV SPDs	Dec 2020
Submission of first planning application (exc. Carleton Clinic)	Early 2021
St Cuthbert's Local Plan – Publication	March 2021
St Cuthbert's Local Plan – Submission	June 2021
St Cuthbert's Local Plan – Examination in Public	Aug-Nov 2021
Start on site first houses (exc. Carleton Clinic)	Autumn 2021

15. Housing Delivery Profile

- 15.1 The housing delivery profile will be refined through the provision of the interim and final iterations of the OHDS and will be informed by the key workstreams around the masterplanning, landowner engagement and viability, supported by the City Council's ongoing engagement with the development industry. At the current time CaCC are still working to the housing delivery profile contained within the HIF submission of September 2018 as contained within Appendix B.
- 15.2 St Cuthbert's continues to be progressed in the context of a strongly performing wider housing market in Carlisle, testament to which is record net housing completions in three out of the last four years including 625 across 2018/19 (against an average annual Local Plan target of 565). These rates of delivery reflect that a growing number of new developers are active within the District underpinned by strong Registered Provider investment both in affordable and home ownership products. Many such developers have now secured and are pursuing planning consent for additional sites which is an evident vote of confidence in the Carlisle market and their desire to remain. The consequence of increased take up and delivery rates is a diminishing land supply which the timely release of St Cuthbert's is, as has always been envisaged, needed to address.

16. Resource and Financial Requirements

16.1 CaCC will continue to have a considerable resource funding requirement to support the ongoing work of the Garden Village. An estimate of the additional consultant funding requirements to cover the necessary workstreams will be covered in future iterations of the OHDS. The categories that will need to be given consideration are

- Delivery vehicle
- Ongoing viability work
- Landowner engagement
- Market engagement
- Area based SPDs and design codes
- Settlement infrastructure design and costing
- Local plan support
- SCGV project management support
- Employment strategy
- Green Infrastructure design and costing
- HIF monitoring and reporting

16.2 CaCC will continue to seek capacity funding opportunities to support the above ongoing workstreams. This may require the City Council tailoring the work programme and prioritising those workstreams that align with the funding available. The funding requirements and potential funding sources will be monitored on an ongoing basis by CaCC. The City Council will also continue to seek funding from within existing council budgets.

16.3 HE administered capacity fund bidding rounds have been key to getting SCGV to the current position. The workstreams identified above are predicated on the assumption that further funding will be made available to support the work of the City Council and its partners in delivering the Garden Village.

17. Next Steps

- 17.1 Section 4 of this OHDS identifies those key workstreams that are underway or due to commence shortly. All of which are important in the delivery of SCGV. However those workstreams and milestones which are most relevant in the short to medium term are:
- 17.2 **Conclusion of the Stage 2 Masterplan & Infrastructure Costing** – This will illustrate those areas of land which are needed for the delivery of SCGV. This will help CaCC identify which landowners are critical to the delivery of the Garden Village and therefore who needs to be the focus of further rounds of landowner engagement. A key part of the follow on work to the masterplanning is the costing of the additional infrastructure over and above the CSLR, which is required to deliver SCGV. This will be an essential requirement of the final viability assessment.
- 17.3 **Conclusion of the AV viability assessment on the preferred masterplan** – Through the completion of the viability work CaCC will have a clearer understanding of where land values are likely and how this relates to landowners aspirations for their land. This will be critical to informing the potential scale of delivery by the private sector and likely level of public sector intervention by a new delivery model.
- 17.4 **The Final Landowner Engagement Report** – This report will identify potential landowner groupings, based on the preferred masterplan option. These landowner groupings will be encouraged to continue to formalise their collaboration arrangements. The final landowner engagement report will identify those groups and provide commentary on where the most deliverable groupings, what support they may need to continue to progress development and what the potential barriers may be. This report will also be key in terms of understanding the scale of intervention that any new delivery vehicle will need to consider.
- 17.5 **Housing Delivery and SCGV Stewardship Models** – CaCC have commenced the work to draw up a brief on which to appoint the legal advisors to guide the delivery model workstream. This work will build upon legal workshops that were held in November 2019 to continue to shape the Council's thinking about the form, powers and governance arrangements of any new delivery vehicle.
- 17.6 **Future Iterations of the OHDS** – There are to be two further versions of the OHDS which will be informed by the proposed final masterplan and viability assessment, along with a clearer understanding of the landowner collaboration requirements (Interim OHDS) and the legal commission that looks into

potential delivery vehicles (Final OHDS). The future iterations of this document will be increasingly specific about what the perceived delivery solutions are and the housing delivery trajectory.

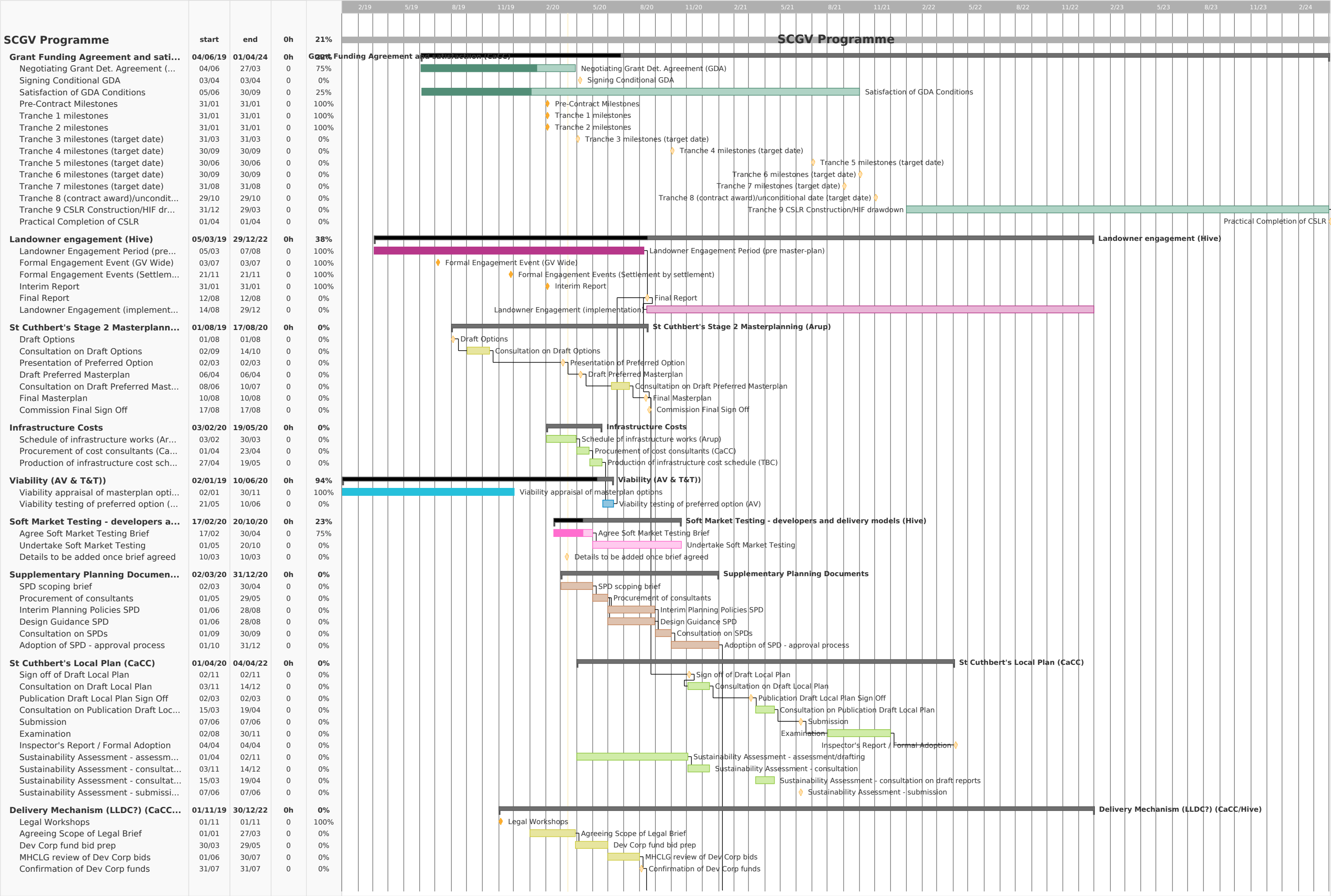
- 17.7 **Funding bid for Innovative Delivery Models** – CaCC will be making a bid to MHCLG for funding from their £10m New Development Corporation Competition. Early engagement with MHCLG has taken place and will continue as the City Council shapes up its bid. This funding will support the legal work already commenced to consider what the most appropriate delivery structure might be.
- 17.8 **Soft Market Testing** – CaCC will be commissioning soft market testing work to consider the roles of a wide range of potential delivery partners. These partners will include varying sizes of housebuilders, including those who are and aren't already operating in the Carlisle area and a wide variety of potential organisations. These organisations will include the larger more strategic RPs who have ambitions that match those of the City Council and a commitment to the Carlisle area, master developers who can create the infrastructure and serviced plots for housebuilders, modular housebuilders and strategic land promoters. This workstream will help shape the delivery ideas and stimulate interest in the Garden Village.
- 17.9 **Interim Planning Policies** – Whilst seeking to encourage applications that can support the delivery of the Garden Village principles, CaCC are also keen to guard against early applications that do not contribute towards the comprehensive, design and sustainability requirements of the Garden Village. Early feedback from developers suggests that this would provide the welcome certainty around the City Council's aspirations and allow them to incorporate such standards within their proposal. Whilst the Local Plan for SCGV is being progressed, consideration will be given to interim planning policies to guide applications that may come in ahead of the adoption of the Local Plan.

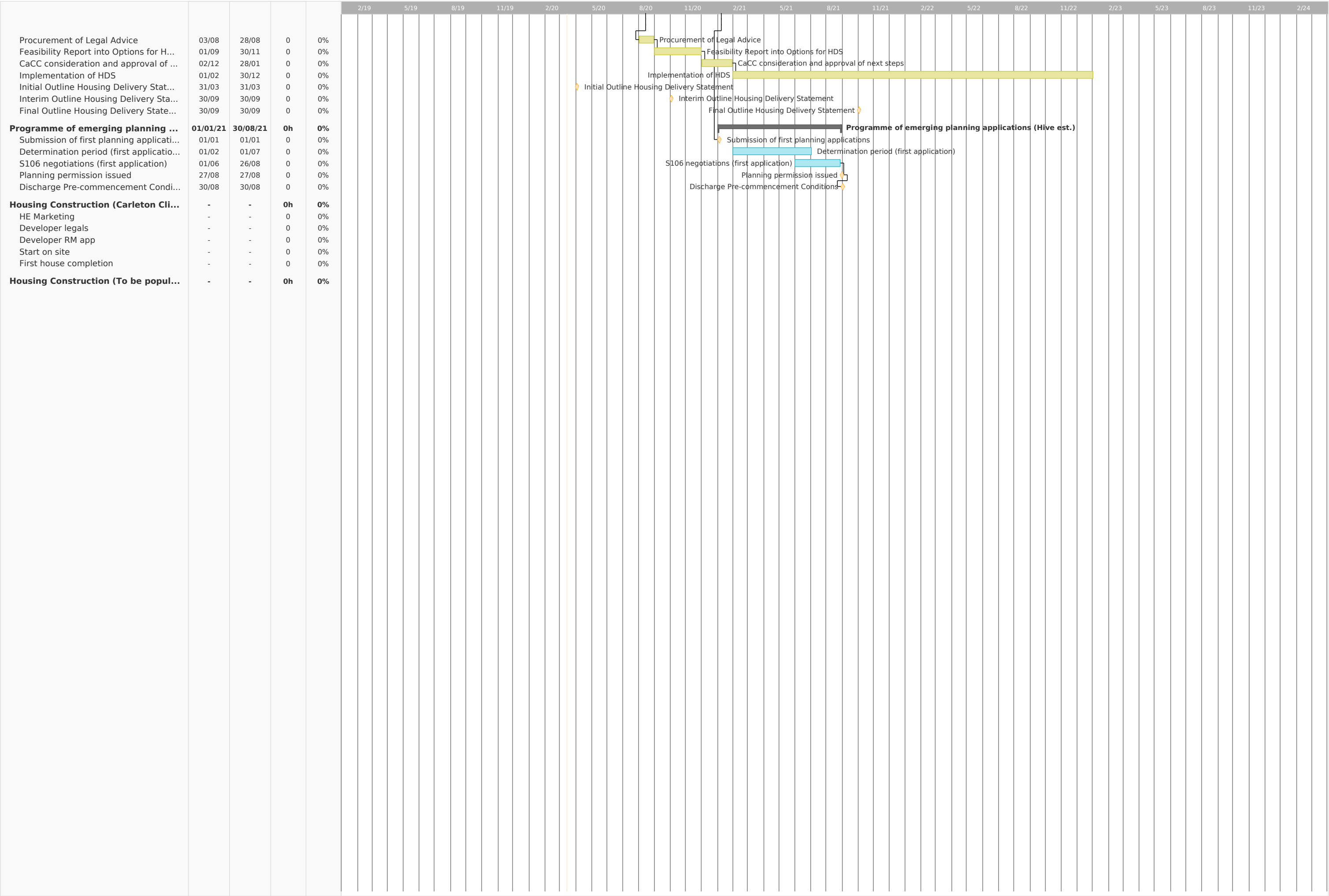
18. Summary

- 18.1 Delivery of any large-scale development such as SCGV is a necessarily complex process involving numerous parties and a diverse range of workstreams. What this Statement demonstrates is that all of the key building blocks are in place and delivery in line with the assumptions made at the time the HIF bid was submitted remains on course.
- 18.2 There have been considerable achievements to date in delivering SCGV which provide a solid basis for the further, more fine-grain, work that will illustrate the future shape of SCGV as well as the challenges and potential delivery solutions. In addition to the multi-disciplinary workstreams underway and the future commissions, CaCC are strategically engaging with MHCLG about longer term innovative delivery models, that will incorporate consideration of Locally Led Development Corporations.
- 18.3 Carlisle benefits from a strongly performing housing market, as evidenced by record net housing completions in three out of the last four years including 625 across 2018/19 (against an average annual Local Plan target of 565). These rates of delivery reflect that a growing number of new developers that are active within the District underpinned by strong Registered Provider investment both in affordable and home ownership products. The consequence of increased take up and delivery rates is a diminishing land supply which the timely release of St Cuthbert's is, as has always been envisaged, needed to address.
- 18.4 There have been significant and meaningful signs of progress across all of the core workstreams, most notably :
- The submission of the planning application for the CSLR;
 - The public consultation on the three masterplan options;
 - The initial viability appraisal work completed;
 - Extensive landowner engagement and the production of the interim report; and
 - Legal workshops and a meeting with MHCLG to explore CaCC backed delivery models

- 18.5 The above workstreams are at the early stages of the road map towards the delivery of SCGV. These achievements will inform the final masterplan and adoption of the land under the SCGV Local Plan. They will also be key pieces of information that shape the delivery strategy and the likely extent of private sector led solutions as well as the extent to which public sector intervention will be necessary.
- 18.6 At this stage CaCC have a variety of tools available to them to deliver housing within SCGV and are taking an open and multi-faceted approach to the task. The future landowner engagement work will continue to tease out where the private sector led solutions may be, in parallel to which will be the legal commission and ongoing engagement with MHCLG to look at innovative delivery models that include LLDC. The final housing delivery mechanism will reflect the needs of any given settlement combined with the respective positions of the landowners and the development industry.
- 18.7 This document is the first of three iterations of the OHDS. Each one will be increasingly specific about the achievements to date, the emerging challenges and the proposed methods through which the houses will be delivered. However at the time of writing there are no factors which fundamentally differ from those made at HIF bid submission stage and no obstacles that present themselves as insurmountable.

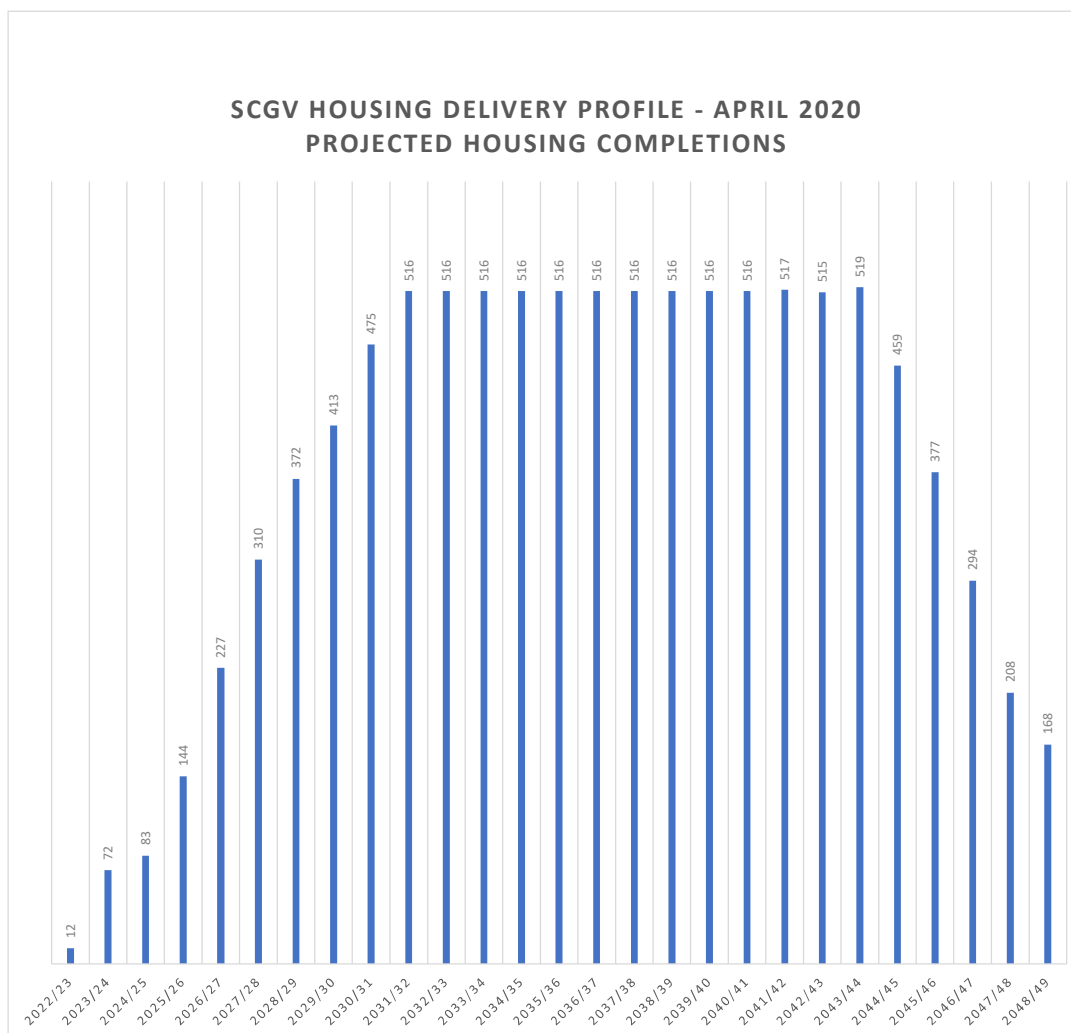
Appendix A – Overarching Programme





Appendix B – Housing Delivery Profile

Appendix B - Housing Delivery Profile



Notes

General Approach	The GDA contains a predicted start on site date of July 2022 for the Carleton Clinic site. Carleton Clinic is predicted to be the first site to commence within the red line of SCGV. It is forecast that this site will complete c 12 units by the end of the 2022/23 year. Neither Hive nor CaCC have undertaken a detailed update of the housing trajectory in compiling this information. The remaining data is lifted from the GL Hearn trajectory from the time of the HIF submission in September 2018, adjusted to ensure the total amount is 10,325. This data therefore does not represent the outcome of a comprehensive review of the likely SCGV housing trajectory. A more detailed trajectory will accompany the interim and final Housing Delivery Statements.
General Approach	As has been made clear and agreed through the GDA contracting process, a more detailed trajectory will accompany the interim and final Housing Delivery Statements.
2022/23	Completions from Carleton Clinic based on agreed Start on Site (as contained in the GDA) of July 2022. Assumed Site set up complete September 2022 and the first house completed January 2023. Assumed 4 units per month will be completed in each of Jan, Feb and Mar.
2323/24 - 2047/48	Completions within these years are carried forward from the September 2018 HIF bid (years 2021/22 to years 2045/46). No additional due diligence has been done on these figures at the current time.
2048/49	Takes the figures from the final year of the Sept 2018 trajectory (150 units in 2046/47) and adds 18 units to bring the total over SCGV to 10,325

Initial Outline Housing Delivery Statement

St Cuthbert's Garden Village, Carlisle

Hive Land & Planning

Lowry Mill, Lees Street, Swinton, Manchester, M27 6DB

www.hiveland.co.uk

Initial SCGV Recovery Strategy

Prepared on behalf of Carlisle City Council

St Cuthbert's Garden Village

April 2020

Hive Land & Planning

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1. Introduction

- 1.1 Hive Land & Planning (Hive) has been instructed by Carlisle City Council (CaCC) to prepare this Recovery Strategy as part of the application to Homes England's Housing Infrastructure Fund (HIF). The HIF monies will be the largest source of capital that will fund the construction of the Carlisle Southern Link Road (CSLR) which will unlock the residential development land at the St Cuthbert's Garden Village (SCGV).
- 1.2 Homes England (HE) is administering the provision of HIF funding on behalf of the Ministry for Housing, Communities and Local Government (MHCLG). The HIF funding is being invested in CSLR to enable delivery of housing outputs in SCGV. However, HE wants to be satisfied that in addition to the HIF investment in CSLR there will be local recovery of funds, defined as 'Recovery Proceeds' within the GDA, to ensure the delivery of the necessary enabling infrastructure within SCGV itself. This document details how CaCC and their partners at Cumbria County Council (CuCC) propose to achieve this.
- 1.3 The provision of HIF funding will be governed by the terms of the Grant Determination Agreement (GDA) which requires 'Recovery Proceeds' to be used to fund infrastructure that supports delivery of SCGV. The 'Use of Recovery Proceeds' is defined in the GDA as follows:

5.6.1 The Grant Recipient must (or, if the Recovery Beneficiary is the recipient, the Recovery Beneficiary must), within ten (10) Business Days of receipt, apply (by actual expenditure or allocation in the relevant budget satisfactory to Homes England) all Recovery Proceeds as follows:

- (a) In the case of Recovery Proceeds received by the Grant Recipient:*
- i towards any remaining Infrastructure Expenditure, including, for the avoidance of doubt, funding payment of Cost Overruns or repaying any sums borrowed in relation to Infrastructure Expenditure; and*
 - ii once no further Infrastructure Expenditure remains, towards funding delivery of the Housing Output (and, for the avoidance of doubt, supporting infrastructure and facilities related to the Housing Output (other than the Infrastructure Site)) or other housing developments and related infrastructure within the county of Cumbria;*
- (b) in the case of Recovery Proceeds received by the Recovery Beneficiary, towards funding delivery of the Housing Output (and, for the avoidance of doubt, supporting infrastructure and facilities related to the Housing Output (other than the Infrastructure Site)).*

5.6.2 Clause 5.6.1 shall cease to apply once the aggregate amount of Recovery Proceeds which has been received by the Grant Recipient and/or the Recovery Beneficiary and applied by them in accordance with clause 5.6.1 (without double counting) exceeds the Maximum Sum.

- 1.4 The GDA contains a number of definitions relevant to this document and, therefore, a copy of the relevant GDA definitions is included at Appendix 1.
- 1.5 For clarity, this Recovery Strategy is detailing the mechanisms through which CaCC and CuCC will realise 'Recovery Proceeds' to facilitate the enabling infrastructure to support delivery of the housing outputs. A value has been attributed to each of the identified recovery mechanisms where possible. However, this recovery value does not always equate to actual cash recovery. Generating recovery in this manner will ensure that developers and landowners are not unduly benefiting from the HIF investment in CSLR and that local partners are committed to capturing land value in order to fund the enabling infrastructure for SCGV.
- 1.6 This Recovery Strategy sits alongside the Housing Delivery Statement that also accompanies the GDA. The GDA requires the development of a Housing Delivery Statement that will set out the detail for the delivery of SCGV and the associated recovery and funding mechanisms. This strategy will therefore be superseded in due course.

Background to St Cuthbert's Garden Village

- 1.7 SCGV, located to the south of Carlisle, will deliver approximately 10,325 new homes including a forecast provision of 20% affordable housing, improvements to infrastructure and services, including new schools, public transport and greenspaces. The delivery of SCGV will support Carlisle's wider economic growth aspirations.
- 1.8 In January 2017 CaCC successfully secured government recognition for SCGV through its inclusion in the Government's Garden Communities Programme. SCGV required the delivery of the Carlisle Southern Link Road (CSLR) to provide the highways capacity for the proposed development to be realised in full.

Background to the Housing Infrastructure Fund

- 1.9 In February 2019 CaCC, and their partners CuCC, successfully secured an allocation of £102m of HIF funding to construct the CSLR. The CSLR will form a new link between the M6 and the south of Carlisle and will unlock the development land at SCGV.
- 1.10 The original bid estimated that the CLSR would cost £112m in total to deliver, with HIF funding £102m of the construction works. Both CuCC and CaCC are providing capital contributions of £5m per authority, taking the total available funding to £112m. This £10m investment is to be recovered from the development of SGCV. The costs for CSLR have recently been revised and currently stand at £136.6m. CuCC are to undertake value engineering to reduce the scheme costs, look to secure additional funding and to underwrite the additional costs over and above the originally identified contributions of £112m, subject to a final Gateway review as permitted within the GDA.
- 1.11 This strategy has regard to the Cost Overrun Strategy, prepared by CuCC.

2 Local Plan & Masterplan Update

- 2.1 CaCC is in the process of preparing a suite of policy documents which will support the delivery of SCGV. The principles established in these documents form the basis for many of the mechanisms available to CaCC and CuCC to generate Recovery Proceeds.

St Cuthbert Garden Village Local Plan

- 2.2 CaCC is preparing the SCGV Local Plan which will provide the policy framework for the delivery of the St Cuthbert's Garden Village Masterplan. The Local Plan will be a statutory document and will include site allocations for new homes, local and strategic employment locations and district and local service centres.
- 2.3 The SCGV Local Plan Overview and Scope document was published in September 2019 which establishes a series of objectives and strategic policies. The SCGV Local Plan is anticipated to be adopted in Spring 2022. The Local Plan will be accompanied by an Infrastructure Delivery Plan that will set out the infrastructure requirements and the proposed policy mechanism for securing contributions from developers.

St Cuthbert Garden Village Masterplan

- 2.4 The SCGV Masterplan has been prepared in two stages. The first stage was completed in February 2019 and sets out a vision and concept for the Garden Village. Stage 2 is currently being prepared by Arup and will identify the preferred option for the strategic location, layout and design of SCGV, the final output of which will be a strategic masterplan framework for the site. The SCGV Masterplan is anticipated to be completed in Summer 2020.

Community Infrastructure Levy (CIL) & SCGV Masterplan Viability

- 2.5 Aspinall Verdi has been appointed by CaCC to prepare a viability assessment of both the SCGV Masterplan options and a district wide CIL charge. This study is utilising a bespoke viability model to assess how viability varies across the District to advise on the introduction of a CIL charge in Carlisle. The commission is also critically assessing the SCGV Stage 2 Masterplan to test the viability and deliverability of the preferred option and advise on the potential developer contributions.

- 2.6 At the time of writing AV have tested the viability of the 3 Masterplan options that were subject to public consultation in Autumn 2019. This information has been fed back into Arup for consideration as part of the wider feedback from the public and stakeholder consultation that is informing the preferred masterplan option.
- 2.7 The above will all feed into the Housing Delivery Statement that is being developed for SCGV.

3 Mechanisms for Recovery at SCGV

3.1 The monies recovered from SCGV as a result of Homes England's investment into the CSLR are proposed to be generated as follows:

- Land value uplift capture; and
- Disposal of Land in CuCC and CaCC ownership within the "Site".

3.2 Each of these is set out in more detail below.

Land Value Uplift Capture

3.3 The value of the land in SCGV will increase from its Existing Use Value to the Residual Land Value once the land is allocated for development in the emerging SCGV Local Plan. CaCC will seek to capture a significant proportion of this land value uplift reflecting the role HIF funding plays in opening up the land for development.

3.4 Through the extensive landowner engagement sessions that have taken place to date, CaCC and Hive have been keen to stress to the SCGV landowners that the Government expects the local authority to capture a significant proportion of the land value increases and reinvest the funds locally. The consequence of which being that landowners within SCGV may not achieve land values comparable with those development sites elsewhere in the Carlisle area, that sit outside of the SCGV redline, when their land is sold for development.

3.5 It should be noted that viability is marginal in SCGV and there will be a cap on the amount of land value uplift that can be captured. If, for example, a CIL charge was introduced in Carlisle, it is unlikely that this charge could simply be added on top of the already agreed mechanisms for land value capture (set out below). In this scenario the amount generated by Section 106, for example, would be proportionally reduced.

3.6 The proposed mechanisms, which will be developed further in the Housing Delivery Statement, for capture of land value uplift are set out below:

1. **Equalisation Agreement:** The landowners in the SCGV area have been encouraged to enter into an Equalisation Agreement, which will establish a baseline land value for all of the land in the SCGV irrespective of the allocated use. This is the preferred approach and will guard against piecemeal development that seeks to deliver only the highest value uses and doesn't provide the comprehensive development required. Landowners are encouraged to collaborate with one another to ensure that lower value land uses, which are for wider public benefit, such as parks, public open space and commercial property also come forward. The lower value uses, in particular the parks, public open space and sports facilities, do not have a 'value' within the development appraisal at Table 1. However, these uses are invaluable local facilities that are critical to the creation of a successful and sustainable Garden Village. It is through collaboration between landowners and the equalisation of their land values that CaCC propose to recover some of the value attributable to the higher value residential uses.

Table 1 illustrates the level of recovery generated by the Equalisation Agreement for each of the Arup masterplan options. These figures will be updated to reflect the preferred option within future iterations of the Recovery Strategy.

Table 1 the key figures set out with the 3 Arup masterplan options, as shown in more detail in Table 6 below, and analyses what is the value forsaken by those owners of the residential land, through the equalisation process. Table 1 shows that were the owner of the land allocated for residential permitted to sell their land on its own, outside of an equalisation approach, the value receivable would be £85.7m, under Option 1. However, when an equalisation approach is taken, by applying the value from the residential land equally across all land uses, that same residential land is now worth £61.9m. We therefore calculate that under option 1, the value recovered through equalisation is £23.7m using rounded numbers. Table 1 also shows the potential value of equalisation agreement for Options 2 and 3.

Table 1: Recovery Generated by Equalisation Agreement

	Option 1	Option 2	Option 3
Gross Land Take (Ha)	357.5	410.5	374
Gross Residential Area (Ha)	258.5	304.5	255
Residual Land Value	£85,672,714	£117,571,524	£79,412,020
RLV/ Gross Land Take (£/Ha)	£239,644	£286,411	£212,332
Equalisation Agreement			
Value of Residential Land	£61,947,962	£87,212,007	£54,144,559
No Equalisation Agreement			
Value of Residential Land	£85,672,714	£117,571,524	£79,412,020
Difference	£23,724,752	£30,359,517	£25,267,461

2. **Design & Quality Standards:** Aspinall Verdi has included a higher build cost in their appraisal model to reflect the higher standard of design required of a Garden Village. Specifically, Aspinall Verdi has stated ‘we would typically assume lower-quartile rates for developments of this size. We have adopted median costs in this instance to reflect the higher standard of design expected within the New Garden Village’. Table 2 illustrates the potential level of recovery generated by the Design & Quality Standards for each of the 3 Arup masterplan options. These figures will be updated to reflect the Preferred Option and will be developed further in the Housing Delivery Statement.

Table 2: Recovery Generated by Design & Quality Standards

	Option 1	Option 2	Option 3
Median Build Cost			
Residual Land Value	£85,672,714	£117,571,524	£79,412,020
Lower Quartile Build Cost			
Residual Land Value	£184,734,529	£217,598,336	£180,788,651
Difference/ Recovery	£99,061,815	£100,026,812	£101,376,632

3. **Developer Contributions** – there different mechanisms that can be used to secure developer contributions and these will be developed as part of the Infrastructure Delivery Plan that will accompany the Local Plan. Commentary of recent activity and work undertaken to date on the developer contribution assumptions is summarised below:

- a. Section 106/ Section 278: Aspinall Verdi has included an allowance of £7,000 per unit for Section 106 and Section 278 costs. Currently this is earmarked for a range of local benefits including education, football pitches, play areas and parks and open space endowment.
 - b. Carleton Clinic Site: Homes England has submitted a planning application for their land at Carleton Clinic, which is situated within the SCGV. The application is yet to be determined but the Committee Report states that, in addition to 20% affordable housing, a sum of £2,000 per plot will be required within the s106 agreement as a contribution towards the cost of the CSLR. The Carleton Clinic Section 106 also includes £218,400 for Secondary Education, £155,000 for Sewell Lonning and £6,600 for Travel Monitoring Fee. There is also a requirement for an on – site play area and maintenance of the open space by the developer but these elements are not costed at this time.
 - c. Community Infrastructure Levy (CIL): Aspinall Verdi is currently assessing the viability of a district wide CIL charge. As a CIL charge is not currently adopted in Carlisle, no value has been attributed to this recovery mechanism at this time. This is a potential future source of recovery depending on the outcome of Aspinall Verdi's work.
 - d. Viability Appraisals: Future planning applications will likely include viability appraisals on a site by site basis. CaCC will need to ensure that the maximum amount of recovery is secured. CaCC presently retain Lambert Smith Hampton to assess future site-specific viability appraisals with the aim of ensuring the maximum recovery is captured through developer contributions, including the proportion of affordable homes, Section 106, Section 278 and, potentially, CIL.
4. **Affordable Homes:** The intended SCGV Local Plan Policy is 20% affordable homes with a 50:50 split between affordable rent and intermediate tenures. Table 3 illustrates the potential level of recovery generated by the provision of Affordable Homes for each of the Arup masterplan options. These figures will be updated to reflect the Preferred Option and feed into the Housing Delivery Statement.

Table 3: Recovery Generated by Affordable Homes

	Option 1	Option 2	Option 3
20% Affordable Housing			
GDV	£2,099,620,290	£2,185,060,803	£2,078,736,596
100% Market Housing			
GDV	£2,245,583,198	£2,336,963,426	£2,223,247,698
Difference/ Recovery	£145,962,908	£151,902,623	£144,511,102

5. **Strategic Infrastructure:** Aspinall Verdi has included an allowance of £10,000 per plot within their appraisal for the remaining Strategic Infrastructure (non-HIF works) required to unlock the housing development at SCGV. This is based on their experience of appraising Garden Communities for Homes England. Overall, the potential recovery generated by the Strategic Infrastructure contribution equates to £103,250,000 for each of the Arup Masterplan options.

- 3.7 It is important to note that there could be further capture of land value uplift through a Roof Tax (or similar / related mechanism) of £1,000 per unit, totalling £10.3m. This Roof Tax will repay CuCC's and CaCC's £5m contributions to the funding of the CSLR. Homes England has stated that this Roof Tax is not permitted to be included within this Recovery Strategy. However, this Roof Tax is a ring-fenced developer contribution and will be prioritised before the other developer contributions detailed within this report.

Disposal of Land in CuCC Ownership

- 3.8 CuCC own 12.3Ha of land within the Cummersdale area that will potentially be allocated for development through the preferred masterplan. Further information will be provided about the potential value of the site, based on the allocated area and the land values included within the final viability appraisal as part of the Housing Delivery Statement. CuCC have proposed that the receipts from the CuCC land at Cummersdale can be recovered and utilised to contribute towards the CSLR Infrastructure Works Expenditure. Confirmation of the capital land receipts for the land at Cummersdale will require approval at CuCC Cabinet.

Summary of Recovery Mechanisms & Recovery Amount

- 3.9 Table 4 summarises the recovery mechanisms set out above and an estimated recovery amount. This includes a gross figure, which comprises the total of all the recovery mechanisms, and a net figure, which comprises the total of all the recovery mechanisms which are above and beyond what is normally achieved on residential sites in Carlisle. A commentary on whether or not the mechanism has been allowed for in the net total is made in the 'Comment' column for each of the recovery mechanisms.

Table 4: Recovery Mechanism and Net/ Gross Recovery Amount

Recovery Mechanism	Recovery Amount	Comment
Collaboration & Equalisation Agreements	£23,724,752 - £30,359,517	<p>The value derived from collaboration and equalisation will be through delivering lower value land uses that are essential to the delivery of the Garden Village overall. e.g. land for schools and community facilities.</p> <p>To be included in net recovery total as an Equalisation Agreement is not commonplace on residential development sites in Carlisle.</p>
Design & Quality Standards	£99,061,815 - £101,376,631	<p>AV has adopted median BCIS to reflect the high-quality nature that the Garden Village is expected to deliver. Lower Quartile BCIS build costs are 10% lower than the Median cost.</p> <p>To be included in net recovery total as the level of Design & Quality Standards to be delivered at SCGV is not commonplace on residential development sites in Carlisle.</p>
Section 106/ 278	£71,895,000	<p>£7,000 per unit is allowed for by AV which equates to £72,275,000 but the Carelton Clinic Section 106 cost has been deducted to avoid double counting. To fund a range of local projects including new infrastructure and services. A proportion could be utilised to fund new local homes.</p> <p>To not be included in net recovery total as most residential development sites in Carlisle are subject to a Section 106 and/ or Section 278 contribution.</p>

Recovery Mechanism	Recovery Amount	Comment
Carleton Clinic	£700,000	<p>As per the Section 106 costs set out within the Committee Report 14.02.20 and includes £218,400 for Secondary Education, £320,000 for CSLR, £155,000 for Sewell Lonning and £6,600 for Travel Monitoring Fee. There is also a requirement for an on – site play area and maintenance of the open space by the developer but these elements are not costed at this time.</p> <p>To partly be included in net recovery total. The £320,000 for the CSLR is not a commonplace contribution for residential development sites in Carlisle. The remaining Section 106 contribution is in line with what is required on other residential development sites in Carlisle.</p>
CIL	Unable to quantify	<p>Possible future source of recovery depending on the conclusions of Aspinall Verdi's viability work, the development may not be viable enough to support CIL and Section 106 so the introduction of a CIL change may reduce Section 106 payments.</p>
Affordable Homes	£144,511,102 - £151,902,623	<p>The GDV varies significantly depending on the housing mix. For option 1 the GDV is £2,245,583,198 for 100% market housing and £2,099,620,290 for 20% affordable homes. For option 2 the GDV is £2,336,963,426 for 100% market housing and £2,185,060,803 for 20% affordable homes. For option 3 the GDV is £2,223,247,698 for 100% market housing and £2,078,736,596 for 20% affordable homes.</p> <p>To not be included in net recovery total as all residential development sites in Carlisle are subject to 20% affordable housing target.</p>
Strategic Infrastructure	£103,250,000	<p>£10,000 per plot for all Strategic Infrastructure required to unlock the housing development at SCGV (non HIF works).</p> <p>To be included in net recovery total as most residential development sites in Carlisle do not require Strategic Infrastructure provision of this scale.</p>

Recovery Mechanism	Recovery Amount	Comment
Disposal of Land in CuCC Ownership	Unable to quantify	CuCC have proposed that the receipts from the CuCC land at Cummersdale can be recovered and utilised to contribute towards the CSLR Infrastructure Works Expenditure. Confirmation of the capital land receipts for the land at Cummerdale will require approval at Cabinet.
Total (Gross)	£443,142,669 - £459,483,771	
Total (Net)	£226,356,567 - £235,306,148	

4 Recovery Appraisal & Assumptions

- 4.1 Aspinall Verdi completed a review of the viability of Arup's 3 masterplan options for SCGV in September 2019. This is the most up to date viability work completed for the SCGV. The value of the various recovery mechanisms presented in this report has been based on this work by Aspinall Verdi.
- 4.2 Arup is currently formulating a preferred option design based on the feedback of the three design options. The preferred option will amalgamate elements of all three options and, once all the design work is completed, further viability work will be undertaken to test deliverability. This Housing Delivery Statement will be informed by this revised viability work.
- 4.3 Table 5 sets out the key assumptions included in the Aspinall Verdi appraisals and Table 6 sets out a summary of the Aspinall Verdi appraisals for each of the options.

Table 5: SCGV Appraisal Options & Assumptions, Aspinall Verdi, September 2019

Assumption		Comment
Affordable Proportion	20% affordable with 50:50 affordable rent and intermediate tenure split	The 20% affordable provision and tenure mix are consistent with the emerging SCGV Local Plan.
Open Market Sales Values	£2,375 psm to £2,621 psm.	Based on local market evidence. A premium has been included for the benefits associated with living in a Garden Village.
Affordable Transfer Values	Affordable rent – 60% of OMV Intermediate – 75% of OMV	Based on local market evidence.
Build Costs	£1,151 psm for houses and £1,330 psm for flats	Aspinall Verdi has adopted median BCIS costs to reflect the high-quality nature that the Garden Village is expected to deliver. This is also reflected in the higher sales values (see above).
Developer Contributions	£7,000 per unit for Section 106 and Section 278.	Based on Aspinall Verdi's experience of appraising Garden Communities on behalf of Homes England.
Strategic Infrastructure	£10,000 per unit	Based on Aspinall Verdi's experience of appraising Garden Communities on behalf of Homes England. As

Assumption		Comment
		the masterplan is developed through the preferred option iteration, an infrastructure cost plan will need to be prepared which defines in more detail the specific strategic infrastructure costs.
HIF Repayment	£1,000 per unit	This is sufficient to repay CaCC's and CuCC's committed contributions towards the CSLR.
Contingency	5% of construction costs.	Reflects the complexity of the development.
External Works	External Works - 15% of construction costs	External works is calculated as a percentage of construction costs for on plot costs. As Aspinall Verdi has adopted high construction costs (see above), this allowance also reflects the higher quality of space that the Garden Village is expected to achieve.
Mines & Minerals	£1,500 per unit	Based on research conducted by Hive Land and Planning.
Professional Fees	6%	Generous allowance for a scheme of this nature.
Disposal Costs	1% Marketing 1.5% Sales Agent Fee 0.5% Sales Legal Fee	
Finance	6% Interest Rate	Applied to 100% of cashflow
Acquisition Costs	Government SDLT bandings 1% Agent Fee 0.5% Legal Fee	
Profit	17.5% of GDV	17.5%, this is assumed to be a blend of: - 20% on open market sales - 6% on affordable housing This is consistent with the PPG which refers to profit between 15-20% for market housing

Table 6: Aspinall Verdi Option Appraisal Summary, September 2019

	Option 1 20% AH	Option 2 20% AH	Option 3 20% AH
Number of Units	10,325	10,325	10,325
Gross Land Take (Ha)	358	411	374
Gross Residential Area (Ha)	259	305	255
Net Residential Area (Ha)	207	244	204
Average Density Gross Residential Area (dph)	40	34	41
Average Density Net Residential Area (dph)	50	42	51
Total GDV	2,099,620,290	2,185,060,803	2,078,736,596
Build Costs	1,089,105,193	1,112,078,280	1,082,746,237
Developer Contributions	72,275,000	72,275,000	72,275,000
Strategic Infrastructure	103,250,000	103,250,000	103,250,000
HIF Repayment To CaCC & CuCC	10,325,000	10,325,000	10,325,000
Contingency	54,455,260	55,603,914	54,137,312
External Works	163,365,779	166,811,742	162,411,936
Mines & Minerals	15,487,500	15,487,500	15,487,500
Professional Fees	65,346,312	66,724,697	64,964,774
Marketing	17,964,666	18,695,707	17,785,982
Sales Fees	37,445,100	38,968,865	37,072,655
Finance	11,410,613	16,340,794	9,112,678
Acquisition Costs	5,927,663	8,207,922	5,757,962
Sub Total	1,646,358,086	1,684,769,421	1,635,327,036
Total Developer's Profit	367,589,492	382,719,857	363,997,541
Residual Land Value	85,672,712	117,571,525	79,412,019

5 Appraisal Comparison

- 5.1 An appraisal was included at the time of the HIF submission in September 2018. This incorporated a variety of assumptions that captured the intended approach at that point in time. As outlined above, further detailed appraisals have been undertaken by AV to assess the viability of the three masterplan options. The intention of this section of the report is to compare the appraisals that were undertaken at both stages and establish what the key differences were.

Table 7: Comparison of GL Hearn and Aspinall Verdi Appraisal Assumptions

Item	GL Hearn Assumption	Aspinall Verdi Assumption	Hive Comments
Approach	Masterplanner Approach. The RLV of serviced residential development land is used as income in an appraisal from a masterplanner's perspective	One appraisal which includes house building and infrastructure.	To date interest expressed from the industry suggests the developers and promoters rather than master planner/master developer are likely to take lead role in delivery.
Gross Land Area	674 ha / 1,665 acres.	TBC	This figure will be informed by the preferred masterplan which is under development
Net Residential Area	295 ha / 729 acres	204 ha / 504 acres – 244 ha / 602 acres	Net residential areas are being refined through the master-planning process.
Net residential density	35 dph / 14.15 dpa	Average net densities across the different options - 42.4 dph – 50.6 dph	AV's advice on densities has been fed into the masterplanning process. Arup are comparing the density of the proposed masterplan with other garden villages and large-scale growth areas.

Item	GL Hearn Assumption	Aspinall Verdi Assumption	Hive Comments
Gross Residential Floor Area	1,156,000 sqm / 12,450,000 sqft	922,178 sqm – 957,937 sqm	Due to the higher densities AV have included smaller house types resulting in a smaller residential floor area. This is informed by the masterplan options
Affordable provision	20% affordable with 50:50 affordable rent and intermediate tenure split	20% affordable with 50:50 affordable rent and intermediate tenure split	The provision of affordable housing will need to be monitored through the future planning applications.
Open Market Sales Values	£171 - £226 psf £1,841 - £2,433 psm	£221 - £244 psf £2,375 - £2,624 psm	AV values are higher. This reflects the increase since Sept 2018 to Nov 2019. AV have also included a premium for the Garden Village and reflects the smaller assumed housetypes.
Affordable Transfer Values	£85 - £113 psf £915 - £1,216 psm [50% of OMV]	Affordable rent – 60% of OMV (1,425 – 1,574 psm) Intermediate – 75% of OMV (1,781 – 1,968 psm)	AV's higher transfer values relate to the higher open market sales values and the smaller discount from Market Value.

Item	GL Hearn Assumption	Aspinall Verdi Assumption	Hive Comments
Build Costs	£70 psf / £753 psm + £10 psf enabling works	£1,151 psm for houses and £1,330 psm for flats	AV have adopted median BCIS to reflect the high-quality nature that the Garden Village is expected to deliver. This is also reflected in the higher sales values (see above). AV have not made explicit allowance for enabling works and have assumed they are included within the external works allowance (see below).
Site infrastructure and external works	£20,000 per unit / £206.5m overall	External Works - 15% of construction costs / £162.4m overall + Strategic infrastructure - £10,000 per unit / £103.3m overall Total £265.7m overall	External works is calculated as a percentage of construction costs. As AV have adopted high construction costs (see above), this allowance also reflects the higher quality of space that the Garden Village is expected to achieve.
Planning Obligations	Education, football pitches, play areas and parks, and open space endowment = £6,622.5 per unit / £68,377,313 overall	£7,000 per unit.	Adjusted up slightly to reflect AV's experience of appraising Garden Communities on behalf of Homes England. The specific infrastructure requirement needs to be assessed at the next stage of development.
CSLR contribution	£969 per unit / £10,000,000 overall	£1,000 per unit / £10,325,000 overall	GL Hearn also assumed a £1,000 per unit roof tax but rounded down.
Mines & Minerals	N/A	£1,500 per unit	Based on research conducted by Hive Land and Planning.

Item	GL Hearn Assumption	Aspinall Verdi Assumption	Hive Comments
Profit	Master developer return – 17.5% of gross development costs. House-builder return – 17.5% of GDV.	17.5% of GDV	Similar profit levels assumed, albeit a different delivery model.
Phasing / Build-out-rate	Net housing land assumed to be brought to the market for disposal in 40 tranches with an average of 258 units within each. Houses assumed to be built at 4 per month per outlet with a peak of 10 sales points / 500 per year.	AV have a continuous housing phase which assumed a peak sales rate of 45 per annum (market houses only) across 11 outlets which equates to circa 500 per year.	
BLV	2 x EUV / £20,500 per acre for constrained land. £77,000 per acre for deadweight land. Weighted average quoted in report = £24,270 per gross acre (based on gross site area excluding employment land).	10 x EUV / £100,000 per acre based on the lower range of premiums quoted within HCA Area Wide Viability Model 2010.	
Professional Fees	£5.2m for securing planning consent. 8% of project costs for the infrastructure. 10% of construction costs.	6% of construction costs (£65m overall).	AV have assumed a scheme of this size, the lower 6% of construction costs is appropriate

Item	GL Hearn Assumption	Aspinall Verdi Assumption	Hive Comments
Disposal Costs	Land disposal – 1.5% of land value / £6.8m overall. Sales Fees – 2% agency fees / 0.5% legal fees. (Total 2.5%)	Marketing – 1% Sales fees – 1.5% Legal Fees – 0.5% (Total 3%)	Broadly similar assumptions
Contingency	5% of build costs. 2.5% of infrastructure works.	5% of build costs.	The same contingency has been applied to build costs. AV will reconsider the infrastructure contingency through the appraisal of the preferred option.
Finance	6.5% on infrastructure and 6% on finance	6%	Broadly similar assumptions
Residual Land Value	£47,599 per acre £75m overall RLV was discounted by 3.5% to derive the present value	£86,000 - £116,000 per acre £79m - £118m overall	The GL Hearn figures were discounted back to derive the benchmark land value. AV's RLV figures are the product of the assumptions herein. The residual land values are broadly in line with the GL Hearn figures at the time of the HIF bid. This will be refined further through the appraisal of the preferred masterplan.

- 5.2 The above table demonstrates that although the high-level assumptions around the delivery model differed, in that GL Hearn assumed there would be an overarching master developer, and their detailed assumptions in some respects differ, the resulting residual land value remains broadly the same. In this respect the viability and deliverability of SCGV remains broadly in line with that assumed at the time the HIF submission was made.

6 Summary

- 6.1 The £102m of grant funding provided through the HIF programme could generate £443.1m to £459.5m of gross recovery to fund the enabling infrastructure for SCGV.
- 6.2 This gross amount of recovery is proposed to be generated through the following mechanisms:
- Land Value Capture in particular through improved design and quality standards, Section 106 and Section 278 payments, affordable homes policy and Strategic Infrastructure provision; and
 - Equalisation Agreement.
- 6.3 Of this, £226.4m to £235.3m of net recovery will be generated. Net recovery is defined as recovery which is above and beyond that which is achieved on other residential development sites in Carlisle.
- 6.4 This net amount of recovery is to be generated through the following mechanisms:
- Land Value Capture in particular through improved design and quality standards, contribution to the CSLR at Carleton clinic site and Strategic Infrastructure provision; and
 - Equalisation Agreement.
- 6.5 There are also other sources of Recovery Proceeds that it is not possible to quantify at this time. These sources are likely to generate additional recovery and may be reported in future. These sources include:
- CIL, in particular whether a CIL charge will or will not be adopted in Carlisle; and
 - Disposal of land in CuCC ownership, which is yet to be valued. CuCC have proposed that the receipts from the CuCC land at Cummersdale can be recovered and utilised to contribute towards the CSLR Infrastructure Works Expenditure. Confirmation of the capital land receipts for the land at Cummersdale will require approval at Cabinet.

Appendix One - Relevant Grant Determination Agreement Definitions

Agreed terms

Definitions

In this Agreement (including in the Introduction and Schedules) the following words and expressions have the following meanings:

Base Value means:

- (a) in relation to any part of the Site which is owned by the Grant Recipient or the Recovery Beneficiary as at the date of this Agreement, its Market Value (on the assumption that such land is valued according to its Existing Use Value) as set out in the Valuation delivered to Homes England by no later than the relevant Milestone Date; or
- (b) in relation to any part of the Site which is to be acquired by the Grant Recipient or the Recovery Beneficiary after the date of this Agreement, an amount equal to the lower of:
 - i the purchase price payable by the Grant Recipient or the Recovery Beneficiary as at the date of the relevant acquisition; or
 - ii 120% of its Market Value as at the date of the relevant acquisition;

Existing Use Value shall have the meaning given to that term by the Royal Institute of Chartered Surveyors from time to time

Increased Value means, in relation to any part of the Site, the Market Value of that part of the Site on the assumptions that planning permission for the Infrastructure Works and/or the Housing Outputs (as applicable) relevant to that Site (or part thereof) have been obtained and the Infrastructure Works have been completed;

Land Value Increase means, in relation to a part of the Site, the amount by which the Increased Value exceeds the Base Value for that part of the Site provided always that if, following any Valuation, the Land Value Increase is negative, the Land Value Increase shall be deemed to be zero;

Market Value means the valuation of a property's market value, determined by a Chartered Surveyor who is a registered Valuer, in accordance with the guidance set out in the Red Book;

Recovery Proceeds means:

- (a) without double counting of any amount received under paragraph (c) below, any consideration received by the Grant Recipient or the Recovery Beneficiary in relation to any disposal of a part or whole of the Site;
- (b) Community Proceeds;

- (c) without double counting of any amount received under paragraph (a) above, an amount equal to each Land Value Increase;
- (d) without double counting of any amount received under paragraph (a) or (b) above, the amount of borrowings raised against any Land Value Increase or
- (e) means the proceeds of a claim against
 - i any landowner from whom the Site (or any part thereof) has been acquired;
 - ii the provider of any due diligence report (in its capacity as provider of the same) in connection with the acquisition, development or financing of the Site, the Infrastructure Works and/or the Housing Output; or
 - iii any member of the Professional Team or any other contractor, consultant or professional engaged in relation to the Infrastructure Works or Housing Output;

Red Book means the "Red Book" (The RICS Valuation Standards - Global and UK, 7th edition), which is the code of practice and guidance for all members of the Royal Institution of Chartered Surveyors;

Site means the Infrastructure Site and the Housing Sites;

Initial SCGV Recovery Strategy

St Cuthbert's Garden Village, Carlisle

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