

# Report to Council

Agenda  
Item:

**14(v)**

Meeting Date: 8<sup>th</sup> September 2020  
 Portfolio: Finance, Governance & Resources  
 Key Decision: NO  
 Within Policy and Budget Framework: YES  
 Public / Private: PUBLIC

Title: CARLISLE SOUTHERN LINK ROAD AGREEMENTS – FINANCIAL IMPLICATIONS  
 Report of: CORPORATE DIRECTOR OF FINANCE AND RESOURCES  
 Report Number: RD27/20

**Purpose / Summary:** This report provides Members with the financial implications on the Council's budgets and the MTFP, as a result of the Council completing both the Grant Determination Agreement and the Collaboration Agreement, in relation to the Carlisle Southern Link Road on 31<sup>st</sup> July 2020.

**Recommendations:**

The Council is asked to approve the 50/50 split in the recovery proceeds as requested by the County Council; and the consequential impact on the Council's MTFP in terms of the temporary use of reserves and/or savings.

**Tracking**

Executive:	<b>17<sup>th</sup> August 2020</b>
Scrutiny:	<b>Not applicable</b>
Council:	<b>8<sup>th</sup> September 2020</b>

## **1. BACKGROUND**

- 1.1 The Carlisle Southern Link Road (CSLR) is a significant project for both the City and County Council. The governance framework for this scheme required (1) a Grant Determination Agreement, to be signed between Homes England, the City Council and the County Council, and (2) a Collaboration Agreement, to be agreed between and signed by the City Council and the County Council.
- 1.2 Both of these agreements were signed by all parties on Friday 31<sup>st</sup> July 2020.
- 1.3 The CSLR is a £144million scheme with the bulk of the funding being received via Homes England (£134million) with both the County and City Council's contributing £5million each.

## **2. PROPOSALS**

### **2.1 Grant Determination Agreement**

The Council's contribution is earmarked within the 2022/23 Capital Programme, to be funded by borrowing, with the expectation that this sum is recouped via recovery proceeds (developer contributions) once St Cuthbert's Garden Village commences. The City Council, and the County Council, will each retain their £5million from the recovery proceeds, before Homes England's £134million is 'received' or reinvested in the Garden Village infrastructure. Following negotiations and discussions, this position is now reflected in the Grant Determination Agreement.

### **2.2 Collaboration Agreement - Recovery Proceeds**

The Collaboration Agreement currently states that the City Council will be entitled to retain the first £5million of recovery proceeds and thereafter the next £5million will be paid to the County Council; however, Cumbria County Council has requested that this clause be revisited and require the recovery proceeds to be split 50/50. Although this will not change the level of contributions received by the City, the timescale for recoupment will be extended and will require the approval of full Council to make the necessary revisions to the MTFP in terms of the temporary use of reserves and required savings.

Any recovery proceeds above £10million will be dealt with in accordance with an agreed Housing Delivery Statement, which is due to be completed by September 2021 and is one of the key milestones and obligations placed upon the City Council. The MTFP assumes the following in terms of developer contributions on the basis that the City Council retains the first £5million of recovery proceeds. The impact of the proposed 50/50 split is also shown:

**MTFP – current**

Year	MTFP income
2022/23	£31,000
2023/24	£72,000
2024/25	£166,000
2025/26	£310,000
2026/27	£372,000
2027/28	£413,000
2028/29	£475,000
2029/30	£516,000
2030/31	£516,000
2031/32	£516,000
2032/33	£516,000
2033/34	£516,000
2034/35	£516,000
2035/36	£65,000
2036/37 – 2048/49	£0
<b>TOTAL</b>	<b>£5,000,000</b>

**MTFP - proposal**

50/50 split income	MTFP Shortfall/ (surplus)	Cumulative shortfall
£15,500	£15,500	£15,500
£36,000	£36,000	£51,500
£83,000	£83,000	£134,500
£155,000	£155,000	£289,500
£186,000	£186,000	£475,500
£206,500	£206,500	£682,000
£237,500	£237,500	£919,500
£258,000	£258,000	£1,177,500
£258,000	£258,000	£1,435,500
£258,000	£258,000	£1,693,500
£258,000	£258,000	£1,951,500
£258,000	£258,000	£2,209,500
£258,000	£258,000	£2,467,500
£258,000	(£193,000)	£2,274,500
£2,274,500	(£2,274,500)	(£2,274,500)
<b>£5,000,000</b>	<b>£0</b>	<b>£0</b>

In order to achieve a balanced budget year on year, the MTFP shortfall identified in the table above will have to be funded from a variety of sources such as the temporary use of reserves, virements (potentially on a non-recurring basis) from base budgets, and/or through the achievement of additional savings, commercialisation schemes or additional income generated through fees and charges.

### 2.3 Collaboration Agreement - Indemnity Cap

Council will be aware that, following consideration of this report by the Executive on 17<sup>th</sup> August, the signed Collaboration Agreement also contains a clause (clause 10) whereby the City Council provides an indemnity/warranty to the County Council in the event of any breach of our contractual obligations. Through negotiation, this has been capped at £5million and is in addition to the £5million capital contribution. A claim under this clause could be made for potential financial losses and liabilities

incurred by the County Council, as a result of the City Council not meeting the 4 milestones which are reflected in the collaboration agreement as follows:

- Saint Cuthbert's Garden Village Masterplan finalised – 30 November 2020;
- Supplementary Planning Document for Saint Cuthbert's Garden Village adopted – 30 April 2021;
- Final Housing Delivery Statement for Saint Cuthbert's Garden Village – 30 September 2021;
- Saint Cuthbert's Garden Village Local Plan adopted – 31 July 2022.

### **3. RISKS**

- 3.1 The trigger for any potential claim under this clause would be the legal action of the County Council against the City Council, if Homes England sought to recover grant money from them because they have not fulfilled their obligations; or they have incurred additional costs; or Homes England decides to not fund the full grant. The trigger would not be the failure by the City Council to hit the milestones, but Cumbria County Council would have to prove that liability attached to Carlisle City Council because their milestones had not been met.

The indemnity set out in clause 10 has been capped at an aggregate of £5million, and whilst an Insurance product and solution is currently being investigated for the potential liability, this is highly unlikely. Therefore the risks and any mitigating control strategies or these key milestones must be fully understood, documented and closely monitored to ensure that the warranty clause is not enforced as this £5million potential cost would be a charge against the revenue budget and would require savings and reserves to be identified. Members are reminded that our current levels of free reserves are just over £3.1million and are also based upon the achievement of £1.850million over the lifetime of the MTFP.

### **4. CONCLUSION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The Council is asked to approve the 50/50 split in the recovery proceeds as requested by the County Council; and the consequential impact on the Council's MTFP in terms of the temporary use of reserves and/or savings

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**Appendices  
attached to report:** None

**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** – The legal situation is set out in the body of the Report. Once the budget profiling position is resolved the Collaboration Agreement between the City and County Councils will need to be amended, for which delegated authority has been given to the Corporate Director of Governance & Regulatory Services to complete, following consultation with the S151 Officer, Leader, Deputy Leader and Portfolio Holder for Economy, Enterprise and Housing.

**PROPERTY - None**

**FINANCE** – as detailed in the main body of the report

**EQUALITY – None**

**INFORMATION GOVERNANCE – None**

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## **EXCERPT FROM THE MINUTES OF THE EXECUTIVE HELD ON 17 AUGUST 2020**

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**EX.99/20      \*\*CARLISLE SOUTHERN LINK ROAD AGREEMENTS – FINANCIAL  
IMPLICATIONS**  
(Non Key Decision)

(In accordance with Paragraph 15(i) of the Overview and Scrutiny Procedure Rules, the Mayor had agreed that call-in procedures should not be applied to this item)

**Portfolio**      Finance, Governance and Resources

**Relevant Scrutiny Panel**              Business and Transformation

### **Subject Matter**

The Deputy Leader presented report RD.23/20, which provided Members with the financial implications on the Council's budgets and the Medium Term Financial Plan (MTFP), as a result of the Council completing both the Grant Determination Agreement and the Collaboration Agreement, in relation to the Carlisle Southern Link Road (CSLR) on 31 July 2020.

The Deputy Leader commented upon the importance of the CSLR to the continuing growth of the City. In so doing he wished to thank all those involved – Members and Officers of both the City and County Councils, and Government representatives for their efforts and for the hard work undertaken during detailed negotiations and which ensured that the project would progress.

The Deputy Leader then moved the recommendations set out in the report.

The Economy, Enterprise and Housing Portfolio Holder echoed the Deputy Leader's comments, expressing special thanks to the Corporate Director of Governance and Regulatory Services; the Corporate Director of Finance and Resources; the Corporate Director of Economic Development; and the Leader of the Council for their work in relation to the complex negotiations on the Grant Determination and Collaboration Agreements.

He expressed the hope that completion of the said Agreements would kick start development of the CSLR which was so important in terms of connectivity of the A595 and M6 and also for the development of the 10,000 homes at St Cuthbert's Garden Village.

Overall, the Portfolio Holder considered it a real demonstration of the ambition and economic growth of the City and so was wholeheartedly behind the project.

The Leader thanked the Deputy Leader and the Portfolio Holder for their comments, indicating that he wished to join in thanking staff and Members from all sides for their work in securing an outcome which would be of benefit to Carlisle over many years to come. He was therefore pleased to second the recommendations.

**Summary of options rejected** that a recommendation to Council should not be approved

## **DECISION**

That the Executive:

1. Had considered and approved, for recommendation to Council, the 50/50 split in the recovery proceeds as requested by the County Council; and the consequential impact on the Council's MTFP in terms of the temporary use of reserves and/or savings;
2. Noted the £5million indemnity cap which may be triggered by the County Council as a result of any financial loss incurred by them, due to the City Council defaulting on any of its obligations and milestones, noting that this will be a call on the revenue budget, if the clause is enforced;
3. Delegated authority to the Corporate Director of Governance and Regulatory Services following consultation with the S151 Officer, Leader, Deputy Leader and Portfolio Holder for Economy, Enterprise and Housing, to approve any amendments to the Collaboration Agreement.

## **Reasons for Decision**

To consider and approve, for recommendation to Council, the financial implications on the Council's budgets and the MTFP of the Carlisle Southern Link Road Agreements