

---

# CABINET

---

**Wednesday, 31st May, 2023**

- Present:** Councillor Peter Britcliffe (Deputy Leader in the Chair), Councillors Loraine Cox, Sajid Mahmood, Kath Pratt, Steven Smithson and Mohammed Younis
- In Attendance:** Councillors Noordad Aziz, Scott Brerton, Jodie Clements, Munsif Dad BEM JP, D Parkins, Kate Walsh and Kimberley Whitehead
- Apologies:** Councillors Marlene Haworth and Zak Khan
- 

**20 Apologies for Absence**

Apologies for absence were submitted on behalf of Councillors Marlene Haworth (Leader of the Council) and Zak Khan.

**21 Declarations of Interest and Dispensations**

There were no reported declarations of interest or dispensations.

The following item was taken next at the meeting.

**22 Huncoat Garden Village Update and Appointment of External Consultants**

*In accordance with Regulation 11 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, approval was given by both Councillor Peter Edwards, Chair of the Communities and Wellbeing Overview and Scrutiny Committee and Councillor Paddy Short, Chair of the Resources Overview and Scrutiny Committee, to the following decision being made by Cabinet on 31<sup>st</sup> May 2023, under the special urgency provisions for key decisions, on the grounds that the decision was urgent and could not reasonably be deferred.*

*Approval was also given by the Mayor to the disapplication of the call-in procedure on the grounds of urgency, in accordance with Overview and Scrutiny Procedure Rule C14.*

Cabinet considered a report which gave an update on progress on proposals for Huncoat Garden Village and which sought approval for the appointment of external consultants to support the Council in progressing the project, the cost of such appointments to be at risk pending determination of the Council's bid for grant funding from Homes England.

Councillor Kath Pratt, Portfolio Holder for Housing and Regeneration, highlighted key elements of the report and Mark Hoyle, Head of Regeneration and Housing, provided additional context. Information was provided by Martin Dyson, Executive Director (Resources), about the Council's General Fund reserves, which currently stood at £2.37m and for which the expected minimum level was around £1m. If the Council's funding bid was unsuccessful, taking into account the at risk elements of the funding arrangements, there would still remain well over £1.5m in reserves. Councillor Loraine Cox and the Chair also spoke in favour of the proposals, which would lead to road improvements and the

remediation of a brownfield site to provide for new quality homes, which would attract families and support the local economy.

Councillor Munsif Dad BEM JP, Leader of the Labour Group, asked if the decision could be taken before the whole Council to ensure greater scrutiny in view of the element of financial risk involved. The Chair responded that this was an executive decision which could not lawfully be taken at Council. David Welsby, Chief Executive indicated that, although the Council could debate any relevant matter, it would be unable to take this decision and the potential delay caused by a further meeting could lead to the timescales for urgency as described in the report not being met.

Councillor Dad also asked how much had been spent on consultancy fees for this project over the last 3 years. The Chair and Mr Hoyle signposted the information set out on page 11 of the Supplemental Agenda which identified a number of grants received which had mostly been spent on consultancy and professional fees.

In addition, Councillor Dad asked if the Planning Directorate's objection to an application for a battery farm submitted to Burnley Borough Council had any implications for the Huncoat Garden Village project. Mr Hoyle indicated that the application had not yet been determined and confirmed that, even if approved, it would not have any implications for the project.

The Chair commented that the project would bring some £30m grant funding into the Borough and should be welcomed by all. Councillor Dad accepted that every penny brought into Hyndburn should be welcomed, but that because of the at risk financial element the matter should receive wider scrutiny at an urgent Council meeting. Councillor L Cox reminded all that the decision was urgent. Councillor Steven Smithson highlighted that the redevelopment of brownfield land would help to protect the Green Belt. Councillor Mohammed Younis stated that the development was very important for Hyndburn and that the report had properly set out all of the relevant issues.

Councillor Noordad Aziz expressed concern that the proposed decision might place serious financial pressures on the Council. He asked about the need to appoint consultants urgently, the likelihood of the overall grant bid being successful and the exposure of the Council's reserves to other large-scale projects, such as Leisure Transformation. Mr Hoyle responded that the Council would need to spend any grant provided by the end of March 2026. A detailed work programme was already in place and issues such as obtaining planning consent for the relief road would need to be commenced soon. Homes England were supportive and met with him weekly. The probability of success was high as Homes England had already invested some of their resources into this project. To some extent the Council now had to speculate to accumulate. Mr Dyson refuted the assertion that the Council might be under significant financial pressure due to this decision. He reiterated his comment that the Council's minimum threshold for its reserves had been assessed at £1m and that, even if reserves were required in this instance, sufficient resources would remain. Contingencies were available for other schemes from Levelling Up Funding and from Lancashire County Council. The Leisure Transformation Programme was not yet fully developed and no high risk decisions would be taken. The Council's accounts for 2022/23 were still being finalised and were likely to return an underspend. A Lancashire-wide sustainability exercise had recently been completed which did not foresee any issues with the Council's finances within the next 10–11 years.

Councillor Parkins indicated that Junction 8 (M65) was at capacity, with the slip road from Shuttleworth Mead Business Park, Padiham, contributing to this and Bolton Avenue, Huncoat also at capacity. The project site appeared to be land-locked and as ward councillor he was against it. He understand the need to redevelop brownfield land,

however, his view was that a scheme for 1,800 new homes with hundreds of additional cars would adversely affect the character of Huncoat. He did not believe that further expenditure on consultants was required on a project that many Huncoat villagers opposed. The Chair responded that the project offered a way to manage the development of the site sensitively and was preferable to industrial development on the land. It would also help to protect Green Belt land across the Borough.

Approval of the report was a key decision.

### *Reasons for Decision*

Huncoat Garden Village formed a major part of Hyndburn Borough Council's growth plans including a once in a lifetime opportunity to diversify Hyndburn's housing offer and provide new housing in a fabulous setting. The Garden Village was a game changing opportunity for market making housing in Hyndburn, at a scale that not only helped the Borough retain those households that otherwise would leave to meet their housing aspirations elsewhere, but also attract new economically active households to the Borough.

Over several years the Council had worked with, and been supported by Homes England, in developing the Huncoat Garden Village Masterplan and project to deliver circa 1,800 new homes at Huncoat. On the 19<sup>th</sup> October 2022 Cabinet had given its approval to make an application for infrastructure funding to Homes England for Huncoat Garden Village. The overall estimated cost of delivering Huncoat Garden Village was £463.24 million of which the Council was seeking grant funding to meet a £29.79 million funding shortfall. The infrastructure grant bid to Homes England included the following specific items:

- A new 1.1km residential relief road connecting Huncoat directly with the A56;
- Land acquisition to enable delivery of the new residential relief road;
- Brownfield land remediation; and
- A contribution towards improvements for junction 8 on the M65

Earlier this year the Council had submitted a full Treasury Green Book compliant business case to Homes England seeking grant funding of £29.79 million. On the 9<sup>th</sup> of March 2023 Homes England's National Investment Project Executive Board had considered and approved the Strategic Outline Case (SOC) for Huncoat Garden Village. This decision reinforced Homes England's support for Huncoat Garden Village. It did not mean that funding had been approved, but it did progress the Business Case to detailed final assessment. Homes England in particular would be looking at "certainty of delivery" and had identified areas where additional information was required. A final decision on Hyndburn's funding application was expected late July / early August this year.

The other key pieces of work that needed to be progressed to support the delivery of Huncoat Garden Village and to provide Homes England with the confidence that Hyndburn could deliver and spend the £29.79 million by the end of March 2026 were as follows:

- *A programme for infrastructure delivery* - for the grant funded works and S106 infrastructure.
- *Housing delivery strategy with indicative programme*. This would ideally include the heads of terms for land agreements with the owners of the former power station and colliery sites, and any other land agreements with other land owners (see "land owner engagement and collaboration below")

- *Land acquisition strategy* – this was required to show how and when the land for the proposed new relief road would be acquired.
- *Procurement strategy for all the infrastructure items* – this would provide Homes England with confidence of spend by March 2026 and that the Council was achieving value for money, especially for the land remediation costs where the land owners would be undertaking the works.
- *Land owner engagement and collaboration* – this was to ensure that land owners and house builders were engaged, were working towards the delivery of housing in line with the Masterplan framework, Design Code (draft), and new draft Local Plan (2037). This would lead to a landowner agreement to deliver infrastructure, land remediation and sites to the market for housing.
- *Planning and EIA Strategy* – this was required to give confidence that a planning framework was in place to support the delivery of Huncoat Garden Village, and therefore would address:
  - The new emerging Local Plan and release of some Green Belt;
  - Implementation of the approved Masterplan;
  - Approval and implementation of the Design Code (Final draft);
  - Securing planning approval for infrastructure works including the new relief road and remediation works, as well as the new housing; and
  - How S106 contributions would be secured in order for non-grant funded infrastructure to be delivered.
- *Risk Assessment* – this was a living document, and the existing risk assessment would be expanded and developed to reflect all of the above.
- *A subsidy control opinion letter* – required from an independent solicitor to demonstrate that the project and elements therein were compliant with the current regulations and law.

It was recognised that the Council did not have some of the specific knowledge, capacity or experienced staff 'in house' to undertake the volume of work and specialised work required to secure a successful bid, especially in the time required, by the end of July 2023. Appropriate consultants had been researched and identified as experts by the Council with suitable experience and knowledge to help the Council to secure a successful funding bid.

The procurement of consultant's at this stage was proposed to be done by way of direct awards made under existing framework agreements which were available for use by the Council. This would ensure compliance with the Council's Contracts Procedure Rules and the Public Contracts Regulations 2015. Officers were proposing that the appointments were made by way of direct awards rather than a mini-tender process on the basis of urgency, as more fully explained in paragraph 3.7 of the report. Consultants on the Framework had provided estimated contract fees for budget purposes. It was proposed to appoint the following consultant types:

- Specialist Planning Advice for Infrastructure Including Transport: for preparing and submitting a full planning application for the proposed new relief road connecting the

A56 with Altham Lane. The potential fee was estimated to be £352,450, potentially rising to up £712,700 should a full environmental impact assessment (£160,250) be required and should full onsite geotechnical ground investigations (£200,000) be required.

- Specialist Business Case Development and Programme & Project Management: for project and programme management and specialist services including land valuations, land owner negotiations, planning and a S106 strategy and delivery expertise. The potential fee was estimated to be £421,575 and would secure a programme and project management role until the end of March 2023.
- Specialist Commercial Legal Services: for additional, specialist legal support including landowner agreements, a CPO strategy and section 106 agreements. The potential fee was estimated to be £115,000.

The proposed Planning and Project Management appointments would exceed the threshold for public procurements, and the Public Contract Regulations 2015 applied to both these procurements (this was the process that had replaced the EU procurement regime following Brexit, but was essentially the same in terms of the process to be followed). The use of frameworks to procure both consultants would satisfy public procurement requirements and enable the Council to comply with its obligations under the 2015 Regulations without the need for a full tender process.

Should the Council's grant funding application be successful one of the grant conditions would require the Council to spend the grant award in full by the 31<sup>st</sup> March 2026. This was a very tight and challenging timescale and therefore in order to achieve full spend by the end of March 2026 key work on the Huncoat Garden Village project needed to be taking place immediately and in line with the project programme currently with Homes England for consideration as part of the funding bid. It was for this reason, and because Homes England would be checking the Council's progress with the project during the due diligence process, that all three appointments referred to in paragraph 3.6 of the report were essential and needed to be made with works starting and progressing before the outcome of the funding bid was known. In summary, all three appointments were urgent and if the appointments were delayed it would seriously jeopardise the Council's chances of securing the grant, and would put the Council at significant risk of not delivering the interventions and spend within Homes England's timescale.

The total estimated cost of the appointments would therefore add up to £1,249,275. These costs were included within the Council's funding submission and were therefore recoverable should the Council's bid be successful, subject to Homes England's Grant Funding Agreement. In the meantime, and until the Council's bid was determined, spend would be at the Council's risk. Working on the timescale provided by Homes England the Council should know the outcome of the bid by late July, early August this year. Based on this timeframe, the Council would manage actual expenditure to ensure only essential costs were incurred until the outcome of the bid was known. The Council would also ensure that the three agreements proposed included termination arrangements should the Council's bid be unsuccessful and therefore help cap the Council's risk. At the time of preparation of the report to Cabinet, officers estimated that the Council's risk in respect of the three appointments was approximately £533,220 as follows:

- Relief Road Planning– the estimated base contract fee of £352,450 (but the Council was seeking to insert a clause to permit termination of the base contract should the bid be unsuccessful which might reduce costs). Subject to appointment the

consultants would commence the essential work in preparing a planning application for the proposed relief road.

- Project Management – capped at approximately £105,770, based on a termination of the contract should the bid be unsuccessful. Subject to appointment, the Consultant would provide project management and support, including specialist advice such as leading negotiations with the various landowners.
- Legal Services – capped at approximately £75,000, based on a termination of the contract should the bid be unsuccessful. Subject to appointment, the Consultant would commence work on drawing up heads of terms with landowners and commence work on a S106 strategy.

As part of Homes England's continued support for Huncoat Garden Village, Homes England had offered the Council a £50,000 grant contribution to the proposed relief road planning and design costs described in paragraph 3.6 of the report. This was a further indication of the Agency's commitment to supporting the Council's plans subject to a satisfactory business case. The Council would be required to enter into a standard Homes England Grant Agreement, with the funding subject to spending the grant by the end of June 2023 and agreed outputs in relation to the relief road planning application. Subject to entering into the Homes England Grant agreement this would reduce the Council's spend and risk as described in paragraph 3.8 of the report to £483,220.

The funding of the costs at risk would be required to be met from General Fund reserves if the bid for the £29.79m was unsuccessful. The balance of General Fund reserves stood at £2.351m as at 31<sup>st</sup> March 2022. There was the potential that this could reduce this balance by £0.483m (before the contribution in paragraph 3.9 of the report), being a 20.5% reduction in the Council's unallocated reserve balances. In the event that none of these costs were reclaimable this could reduce the Council's General Fund reserves to £1.868m.

This reduction of the General Fund reserves might affect decisions on the potential freezes / rises in Council Tax, the future funding of the Capital Programme and the Council's ability to meet short to medium term gaps in revenue funding if the government was to review its future funding allocations.

It was proposed that the decisions made in respect of the report should be exempt from call-in by reason of their urgency. Rule C14 of the Council's Overview and Scrutiny Procedure Rules permitted Cabinet decisions to be excluded from the call-in process if members were satisfied that the decisions were sufficiently urgent. The exclusion of call-in would also require the agreement of the Mayor (or Deputy Mayor in the Mayor's absence) and this had been sought separately and obtained. Officers considered that implementation of the decisions was sufficiently urgent not to allow time for call-in in order to progress very quickly the appointment of expert consultants to progress the Huncoat Garden Village project, and demonstrate to the funder, Homes England, that the Council could achieve delivery of the grant funded interventions as described in the report and spend the grant in full in the challenging timescale by the end of March 2026.

#### *Alternative Options considered and Reasons for Rejection*

For the reasons set out above, it was important that the above appointments were undertaken very quickly, with spend at risk, if the Council was to have any realistic opportunity in achieving its wish to secure nearly £30 million grant funding from Homes England in respect of the Huncoat Garden Village project.

The Council was working closely with Homes England to secure the grant funding described in the report. As part of the funding approval process, Homes England's Project Executive Board had considered and approved the Strategic Outline Case for Huncoat Garden Village as described in paragraph 3.3 of the report. In its feedback to the Council, Homes England had made clear what it required the Council to demonstrate in respect of both spend and delivery before grant funding would be approved and the Council's funding bid would not be successful if these requirements were not met. This meant the spend described in section 3 of the report was essential to demonstrate and satisfy the funder, Homes England, that the Council could deliver the intervention and spend by the end of March 2026.

**Resolved**

**- That Cabinet:**

- (1) Notes and welcomes the progress being made in bringing forward development land and infrastructure to enable new residential development as set out in the Huncoat Garden Village Masterplan Framework and Infrastructure Delivery Strategy.**
- (2) Approves additional revenue budget provision of £483,220.00 for the Huncoat Garden Village Project to meet consultancy costs to be incurred at risk to the Council, as set out in detail in paragraphs 3.6 and 3.8 of the report.**
- (3) Approve the use of up to £483,220 from General Fund reserves to meet the consultancy costs referred to in resolution (2) above, should the Grant bid to Homes England be unsuccessful.**
- (4) Approves the appointment of three consultants using an established framework that satisfies the Council's needs without amendment so as to permit the direct awards referred to in paragraph 3.6 of the report and gives further approval to proceed with the appointments in accordance with the terms of the framework.**
- (5) Subject to resolution (4) above, delegates authority to the Head of Regeneration and Housing to agree final terms of the appointments in consultation with the Executive Director (Legal and Democratic Services) and authorises the Executive Director (Legal and Democratic Services) to finalise and execute all legal documents to conclude the appointments.**
- (6) Subject to resolutions (2) to (5) above, agrees to accept the Homes England Grant Award of £50,000 towards the costs described in paragraphs 3.6 and 3.8 of the report, and delegates authority to the Executive Director (Legal and Democratic Services) to finalise and**

**execute a grant agreement between the Council and Homes England.**

- (7) Agrees that the decisions set out in paragraphs (2) to (6) above are urgent ones for the reasons set out in paragraph 3.7 of the report and therefore agrees to exempt this report and the decisions made in respect of the same from the Council's Call-In Procedure in accordance with Rule C14 of the Council's Overview and Scrutiny Procedure Rules, subject to the necessary consent being obtained in accordance with Rule C14.**

**23 Exclusion of the Public**

The public were not excluded from the meeting, as there were no matters to be taken in Part C of the Agenda (Exempt Items).

Signed:.....

Date: .....

Chair of the meeting  
At which the minutes were confirmed