

CWWTPR DCO Examination

Submission by Save Honey Hill Group 6 December 2023

Funding and Development Arrangements

1.0 Introduction

During the ISH2 oral submissions made by Homes England and the Applicant, regarding funding, site development and the corresponding agreements (referenced as EV005e and EV005f), the Applicant undertook to provide a joint submission so *'the whole story is told by all three of us at the same time'*.

The ExA emphasised its preference for *'the fullest answer possible'* and that *'the more evidence we can see the better'* acknowledging that some of it may need to be redacted.

This dialogue translated into Action Point ISH2.7, for the Applicant, Homes England and Cambridge City Council (CCC):

To provide a document which sets out the Housing Infrastructure Fund application, the agreed arrangements and conditions, as well as the Master Development Agreement.

This is also reflected in the Applicant's Post Hearing Submission document AW 8.6 [REP1-082], Paragraphs 2.26 to 2.29 but particularly paragraph 2.26.1, noted below:

In response, the Applicant stated that the HIF agreement was entered into by the Applicant, Homes England and Cambridge City Council. The Applicant was asked to prepare a joint submission between it, Homes England and Cambridge City Council on the HIF agreement. The Applicant confirmed it could so but noted that it is commercially sensitive and therefore some would need to be redacted.

SHH does not consider this action to have been fully discharged and therefore provides the following interim comments pending the full discharge of action ISH2.7.

2.0 Applicant's Response

The Applicant has not provided a document which sets out the Housing Infrastructure Fund application, the agreed arrangements and conditions, as well as the Master Development Agreement, which the ExA and SHH expected would be an full and informed summary.

The Applicants response to ISH2.7 appears to comprise the following:

2.1 Deadline 01 Submission Cover letter, page 16, table entry stating:

'The following documents have been provided as part of the Deadline 1 submission:

- 8.7 [REP1-083] Cambridge HIF bid submission *
- 8.8 [REP1-121] HIF Grant Determination Agreement ("GDA")
- 8.9 [REP1-122] Master Development Agreement ("MDA")'

*SHH notes that document 8.7 [REP1-083], Cambridge HIF bid submission, is not evident on the PINS portal, within the 182 documents uploaded for deadline D1, and therefore does not appear to have been supplied. [REP1-083] has since been annotated in the examination library as at 2 December 2023 with '*This document will be made available as soon as possible*'. Further, a range of Appendices [REP1-084 to REP1-120] have since been added to the PINS portal. SHH notes that the following HIF Appendices appear to be missing:

- a) Appendix J (Funding);
- b) Appendix M (Economic Impact);
- c) Appendix N (Market Analysis);
- d) Appendices R / S (Cost Plans);
- e) Appendix T (Development Appraisal);
- f) Appendix U (Land Compensation);
- g) Appendix AC (Risk Register); and
- h) Appendix AD (Developer Case Study).

2.2 Document 8.3 [REP1-079], Applicant's Responses to the Examining Authority's Written Questions

Paragraph 2.27 k) of AW 8.3 [REP1-079] also references: '*A redacted copy of the HIF bid can be found at Document Reference 8.7*', which as noted above has not been provided.

2.3 AW 8.10 [REP1-123], Homes England Assessment of the Cambridge HIF Bid, referenced in AW 8.3 [REP1-079], ExAQ1 Responses, paragraph 2.27 k). Note that while 2.27 k) refers to a redacted copy, no reference is made to the omission of pages 4-8 inclusive from AW 8.10 [REP1-123], nor why these have been omitted.

3.0 SHH Relevant Representation / Written Representation

SHH has already raised its concerns regarding the funding arrangements in its Relevant Representation (RR-035, section 11) and Written Representation SHH 04 [REP1-171], section 11.

The Applicant has responded to RR-035, section 11 on page 458 of the Applicant's Response to Relevant Representations document (AW 8.2 [REP1-078]), simply as follows:

The Applicant acknowledges the comments. The following application documents cover these issues, respectively:

- 3.2 Funding Statement [APP-013]
- 7.5 Planning Statement [AS-128]
- 2.1 Draft Development Consent Order [AS-139]

This response does not address SHH's concerns nor those amplified in SHH's Written Representation (REP1-171).

4.0 SHH Interim Response to Funding Submissions at D1

In light of the Applicant's incomplete response to Action ISH2.7, the missing documents referenced above, and with comments arising from the D1 submissions still pending, SHH has provided interim observations below to specific aspects of the Applicant's submission but reserves the right to

provide further substantive comments once the above shortcomings have been resolved and the full information made available:

4.1 Applicants Responses to the Examining Authority's Written Questions – AW 8.3 [REP1-079]

The following table provides the Applicant's response followed by a SHH observation:

ExA Q1 Ref	<i>Applicants response and SHH Observations</i>
2.27 b)	<i>To support the HIF bid, the Applicant carried out a costing exercise which considered the generic costs of relocating to a, then unidentified, site within the relevant catchment.</i>
SHH Observations	While the complete HIF Bid document AW 8.7 [REP1-083] has yet to be provided, from the information currently available SHH believes this to be incorrect. While the site selection exercise had not been completed and therefore a final site was not known, SHH understanding is that costings were provided for two specific identified sites. This is also reflected in HIF Assessment document AW 8.10 [REP1-123] which refers on page 10 to 'costs being derived from a number of indicative sites'.
2.27 c)	<i>As described above, only a costing exercise was carried out at this stage.</i>
SHH Observation	This is addressed in Chapter 11 of SHH Written Representation document SHH 04, [REP1-171]. The HIF Bid went to some lengths to assert the integrity of the Applicant's costings.
2.27 d)	<i>As above, the work carried out to support the HIF bid did not include a site selection exercise.</i>
SHH Observation	SHH would like the Applicant to explain why the Honey Hill Site was not included within the costings submitted as part of the HIF Bid, noting that as stated in Paragraph 2.3.4 of the Applicant's Planning Statement [AS-166], 'Preferred Options December 2006 identified a preferred site at Honey Hill, Horningsea/Fen Ditton, north of the A14 (Site SSP15)'.
2.27 e)	<i>e) It is not known how many sites in the Stage 1 Initial Site Selection Report (App Doc Ref 5.4.3.2) [APP-075] could have been delivered within the funding envelope. As described in section 2 of that document, the Stage 1 Initial Site Selection process was based on physical constraints mapping including catchment locations and the 8 constraints listed in table 2.1. It would be costly, resource intensive and premature to develop cost models for the 47 areas of lower constraint identified in the report.</i>
SHH Observation	Page 29 of the heavily redacted version of the HIF bid document that SHH has access to, states that 'The cost of items 2 and 3', referring to the water and sludge treatment plants, 'are approximately the same, wherever the plant is located. The location of them does affect the length of the tunnels and therefore the cost of them'. It is unclear to SHH why a simplified tunnel cost estimate could not have been provided to allow an initial order of magnitude level costings to be considered for all of the wider non-green belt sites.
2.27 f)	<i>The HIF funding application was based on a robust estimate of generic costs of relocating to a, then unidentified, site.</i>

SHH Observation	This is substantially incorrect. While a final site had still to be selected, as set out in SHH RR-035 and WR SHH 04 [REP1-171], the HIF Bid document provided costs estimates for the long and short tunnel options for specific sites . SHH further notes that under 2.27 c, the Applicant states that it only conducted a costing exercise, yet under 2.27 f, it is now referred to as a robust estimate.
2.27 f)	2.27f) continues to state: <i>'The Applicant does not believe it affects the robustness of any consultation.'</i>
SHH Observation	SHH objects strongly to this statement. Consultees should be able to rely on the accuracy of financial and technical information submitted by the Applicant. Unlike the Applicant, Community groups such as SHH are voluntary and the task of providing a 'free error checking service' for the Applicant's technical and financial documents is already challenging, but made even harder if the integrity of the information provided cannot be relied on. In this case, the Applicant's ability to deliver a scheme which was capable of meeting the constraints of national and local planning policy and for sites which were appropriate to be considered throughout the site selection process were both crucial. The opaque application of cost constraints was one of several fatal flaws in the applicant's site selection and consideration of alternatives.
2.27 g)	<i>The parties to the HIF bid agreed the use of the higher number for bid was correct, to cover contingencies etc.</i>
SHH Observation	Based on the HIF Bid document, this is substantially incorrect. As set out in SHH RR-035 and WR SHH 04 [REP1-171], page 133 of the HIF bid states that <i>'the longer tunnel option has been used as the maximum cost'</i> . In the un-redacted portions of the HIF document that SHH has access to there is no mention of using the higher number to cover contingencies etc. SHH looks forward to the submission by the Applicant of AW 8.7 [REP1-083], still to be published, in the hope that it will include Appendix 6.1.4 and Appendix R, referenced in the business case, which we understand contains the estimates for the two tunnel options.
2.27 k)	<i>k) A redacted copy of the HIF bid can be found at Document Reference 8.7 [REP1-083] All applications to the HIF programme were subject to a comprehensive assessment process undertaken by MHCLG (now DLUHC) and Homes England. A summary of the HIF assessment process and the assessment of the Cambridge HIF bid submission is in Document Reference 8.10.</i>
SHH Observation	As noted above, AW 8.7 [REP1-083] has not yet appeared as a D1 submission. Further comments provided regarding HIF Assessment document AW 8.10 [REP1-123] below, noting the omission of pages 4-8 inclusive.
8.25	<i>As stated in paragraph 3.1.9 of the Funding Statement (App Doc Ref 3.2) [AS-013], the Applicant has kept the estimated cost of the Proposed Development under review for changes in market conditions and contingency. The result of the review has shown an increase in costs to deliver the Proposed Development, mainly relating to building cost inflation. As stated in paragraph 3.1.10 of the Funding Statement (App Doc Ref 3.2) [AS-013], the parties to the HIF Agreement are committed to working together to</i>

	<p><i>secure any additional funding required for the Proposed Development. The Applicant is confident that the continuation of this collaborative working will lead to a mechanism becoming available during the Examination to secure the additional funding required.</i></p> <p><i>Preparations to award the construction contract are progressing, and so, in order to maintain competitive tension in the procurement process and so obtain best value, the revised estimate of costs must remain confidential.</i></p>
SHH Observation	<p>As set out in SHH RR-035 and WR SHH 04 [REP1-171], substantial inconsistencies exist between the HIF bid document and the position now set out by the Applicant. It is notable that to date the Applicant has not provided any substance to support its estimates contained within the HIF bid, or its current assessments. The bold text highlighted above appears to suggest that, at this point in time, those arrangements are not concluded and SHH's position is that there insufficient certainty of funding to meet the requirements of the Compulsory Acquisition Guidelines and therefore that the grant of compulsory acquisition powers should not be made in the DCO.</p>

4.2 Applicant's submission AW 8.10 [REP1-123] HE Assessment of Cambridge HIF Bid - Redacted
SHH provides the following observations on the document pages published (pages 1-3 and 9-13):

Page	SHH Observations
Page 3	<i>Notes the expectation of further due diligence being necessary for those schemes that are allocated funding.</i>
SHH Observation	SHH would welcome publication of the further due diligence enacted on the Cambridge and Peterborough CNFE HIF award.
Spend profile Pages 9, 10 & 13	<p>Page 9 'Housing Profile – Starts' and 'Spend profile' tables already show very substantial slippage.</p> <p>Page 10 Panel considerations also notes 'The requested spend profile is already beyond when we have budget for'.</p> <p>Page 13 Spend profile references that 'if Ministers do not agree to a HIF spend deadline extension, then further conditions will need to be levied to ensure that the infrastructure is fully funded'</p>
SHH Observation	In addition to the obvious concerns regarding persistent slippage and surety of funding, SHH notes again the absence of any quantitative costing information and the effect that such slippage is having on the corresponding budget, affordable sites and, in turn, potential abortive spending from the public purse.
Strategic Page 10	<p>The Strategic category notes the strong evidence of housing need and provision of affordable housing but further confirms that 'The bid exceeds current local plan housing targets'.</p> <p>The Assessment continues to confirm: 'This is a joint bid with Anglian Water and the LEP. The local MP and council are supportive. Three stakeholder forums have taken place, however there is no further evidence of support from other stakeholders or the wider local community'</p>
SHH Observation	<p>The exceedance of the Local Plan housing targets is noted.</p> <p>In addition, SHH wishes to draw attention to the Applicant's initial consultation report AW 6.1.14, APP-178, page 9 which reinforced the lack of support for relocation.</p>

	A considerable element of those who supported the relocation was understood to be those impacted by the Applicant's poor record of improvements at the existing works which could significantly benefit any impact from the odour profile.
Panel considerations Page 11	The ' <i>Mitigations</i> ' lower box confirms that ' <i>Once the site of the new WRC is confirmed, the project costs are to be finalised and the delivery programme updated</i> '
SHH Observation	The announcement for Site 3 at Honey Hill was published January 2021, yet the Funding Statement AW 3.2, APP-014 and the Applicants responses to ExAQ1, 8.25 & 8.26 appear some way from achieving what is set out in the HE Assessment. SHH notes that as set out in SHH RR-035 and WR SHH 04 [REP1-171], the HIF submission business case advises of sufficiency for risk, contingency and optimism bias and is understood to be the basis for the HIF award.
Funding Conditions Page 13	The Funding Conditions table is noted to include a requirement for ' <i>A mechanism to be in place which incentivises Anglian Water and @One Alliance to minimise the cost of the new WRC.</i> '
SHH Observation	SHH is interested to know what form this incentivisation has taken and the extent to which this may have influenced the choice of site, potentially excluding sites that are otherwise more suitable, based on cost.
Funding Conditions Page 13	The funding assessment, and presumably one of the conditions on which the assessment was approved, stated ' <i>The parties within the SPV will be required to commit to funding any additional cost, if the project runs over budget.</i> '
SHH Observation	Funding Statement AW 3.2, APP-014 and the Applicant's responses to ExAQ1, 8.25 & 8.26 do not appear to align with this funding condition, with only a funding commitment to meet 5% of any additional costs, in addition to the already significant inconsistencies regarding the site cost estimates and assurances in the HIF bid submission.
Funding Conditions Page 13	A further funding condition addresses ' <i>Delivery Milestones: Once the site of the new WRC is confirmed, further due diligence will be undertaken to ensure the new site for the WRC is deliverable. In terms of costs, these need to be confirmed and the delivery programme needs to be updated. The applicant should provide detailed and audited costs at RIBA Stage 2 and an associated layout plan.</i> '
SHH Observation	SHH would welcome publication of the further Due diligence Assessment conducted on confirmation of the selection of the Honey Hill WRC site. Presumably this should have taken place prior to the Applicant's site announcement published January 2021. Further the provision of detailed and audited costs based on the selected site will allow a greater understanding of the relationship between the HIF bid submission costed for two different sites, the site selection assessment and the current status.

5.0 Joint Submission

In the expectation of a joint submission in response to ISH Action 2.7, SHH would welcome clarity regarding submissions from the three parties: the Applicant, Homes England and Cambridge City Council (CCC).

The Applicant has responded by setting out the related documents on page 16 of its Deadline 1 Submission - cover letter, as noted above, and has provided a copy of document AW 8.10 [REP1-

123], HE Assessment of Cambridge HIF Bid Redacted, referenced within AW 8.3 [REP1-079], Applicant's Responses to the Examining Authority's Written Questions responses. No other responses appear to have been provided by the three parties.

Cambridge City Council responses to related ExAQ1 questions 2.27 a) to c) and 2.31 a) to c) state:

'The matters raised in these questions are for the City Council and Anglian Water as Applicant and landowners promoting the redevelopment of the site. They are not matters for the local planning authorities.'

Under its response to Q 1.16, CCC states:

It is correct that Cambridge City Council owns part of the land covered by the Order and which is also the subject of the proposed by the draft NECAAP. SCDC does not own any of the land the subject of the DCO or indeed the subject of the NECAAP proposals.

The City Council and SCDC (as is made clear in their representations to this DCO application) are acting in accordance with their statutory roles as local authorities for the area within which the DCO falls and hence as statutory Interested Parties in accordance with the Planning Act 2008.

The City Council in its landowner capacity has separate legal representation to its other statutory capacities. To be clear it is often the case that a local authority which owns land within its own administrative area will need to act separately and be treated as a separate entity when seeking to develop that land.

The City Council is understood to have 3 distinctly separate roles all of which are of relevance in this DCO Examination, as:

- 1) local planning authority for the core site, as part of NECAAP
- 2) HIF Grant applicant, lead authority and Section 151 project sign off authority
- 3) Land owner and beneficiary from any relocation of the WRC with consequential uplift in development land values

The ExA needs to be satisfied that information being provided by the City Council to this Examination properly reflects its position as both LPA and promoter of the NECAAP development/landowner of part of the core site. It is not clear that the submissions made to date under ISH Action 2.7 are a coherent response from the three key parties to the question of funding certainty and risks of non-performance.

6.0 Conclusion

The ExA is asked to pursue the concerns raised by SHH above and to examine forensically the incomplete and in places incorrect assertions and information provided by the three parties in the responses to the ExA's questions on funding and certainty. If the missing HIF document is provided or further explanations provided by the Applicant or other parties, SHH will review and respond to these.