



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

17 JULY 2023

CARDIFF CAPITAL REGION (CCR) HOUSING VIABILITY FUND

**REPORT OF THE DIRECTOR FOR PROSPERITY AND DEVELOPMENT IN
DISCUSSIONS WITH THE RELEVANT PORTFOLIO HOLDER (COUNCILLOR
MARK NORRIS)**

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1. PURPOSE OF THE REPORT

- 1.1 The purpose of the report is to progress the CCR Housing Viability Gap Fund on Cwm Coking Works to a stage to enable the draw-down of £8 million of available funding.

2. RECOMMENDATIONS

It is recommended that Members:

- 2.1 Approve and authorise the Agreement between the developer and RCT to enable the draw-down of £8 million of funding from the CCR Housing Investment Fund.

3. REASONS FOR RECOMMENDATIONS

- 3.1 Cwm Coking works is a strategic site in the RCT LDP and this recommendation seeks to enable the potential to develop a minimum of 625 dwellings (subject to planning permission) and to remove the eyesore that is the disused coking works.
- 3.2 Whilst the site has been the subject of previous Planning applications, little or no interest has been expressed at the site that would suggest that development would not otherwise be forthcoming for the foreseeable future without additional 'gap' funding.

4. BACKGROUND

- 4.1 RCT (along with a number of Councils in the region) have been working with Cardiff Capital Region (CCR) to develop funding interventions to facilitate major residential developments that have stalled and without intervention from the public sector, would not ordinarily be built.
- 4.2 Such circumstances are often because of a viability gap caused by prevailing ground conditions. These are largely caused either by past mining activities or relate to previous uses at the site which has resulted in a legacy of significant contamination.
- 4.3 The CCR Housing Viability Fund was open to all 10 Councils in the region to bid.
- 4.4 As part of this project, RCT engaged with twenty developers/landowners whose sites have (or had) the benefit of Planning consent and/or are allocated sites within the Council's LDP. These developments, whilst having a favourable planning status had not been implemented.
- 4.5 Of these twenty sites, three were selected by the Council (based on a robust methodology using information provided in the responses received from the developers) to progress under the Cardiff Capital Region Viability Gap Funding ('Funding'). The sites put forward to CCR for consideration were.
- The former Cwm Coking Works (Beddau)
 - The former Aberdare Hospital site and,
 - Nant y Wenallt / Moss Place (adjoining Aberdare Hospital)
- 4.6 All three sites are either specifically allocated in the LDP or, if not, are "within settlement limits" and have had previous consents (although these had expired, most likely due to the viability issues that this fund seeks to remedy).
- 4.7 Following a rigorous assessment and a decision by CCR's Cabinet, all three sites put forward in RCT were selected and became eligible for the Funding. The amount of funding allocated for each site is significant and has been arrived at through a robust development appraisal process led by global commercial real estate and investment advisers, CBRE:
- Cwm Coking works has been awarded £8 million,
 - Aberdare Hospital £2.04 million and
 - Nant y Wenallt / Moss Place £1.514 million.
- 4.8 RCT has secured £11.554 million from a maximum available fund of £35 million (which equates to 33.01% of the fund).
- 4.9 Initial figures suggested (subject to Planning consent) that the Funding allocated to RCT would help secure approximately 1000 houses (with each site having to include 10-20% affordable housing in accordance with LDP

requirements).

- 4.10 Due to the specific nature of the financial position of both the Aberdare sites and their respective developers, the funding for those two sites is allocated through a direct agreement between the developers and CCR. **No action is requested of Cabinet in respect of these two sites.** Any risk lies with CCR and the role of the Council on these sites is to act as the Local Planning Authority in the determination of any Planning applications. There will inevitably be a role in liaison between the individual developers and CCR in terms of progress and compliance with any Planning consents, but there would not be any financial risk to the Council should the development fail in completion.
- 4.11 At present, **Aberdare Hospital** has been approved by the Council's Planning & Development Committee and planning permission will be granted subject to the applicant entering into a S106 agreement.
- 4.12 **Nant y Wenallt / Moss Place** is due to be submitted later this year and the developer is currently engaging in pre-application discussions. It is likely that a determination could be made by the end of the year.

5. THE FINANCIAL AGREEMENT FOR CWM COKING WORKS

- 5.1 As is the case with the majority of other schemes in the region that will benefit from this fund, the funding for Cwm Coking works (£8M) will be made available through the Council entering into an agreement with CCR to manage the grant through an additional funding agreement between the Council and the developer.
- 5.2 This means that while the Funding would be made available via CCR, the administration of the funds and the subsequent delivery of the houses will be a matter for the respective Councils to monitor and progress through to completion.
- 5.3 Should the funds be paid out and the development *not* completed within a set timescale and conditions, then the individual Councils would ultimately be responsible for paying all or part of the money back to CCR.
- 5.4 The agreement between CCR and the Council is already in place and in order to progress the scheme a back-to-back agreement is required between the Council and the developers of the Cwm Coke Works site that places the requirements of the Council under the CCR Grant Agreement directly onto the developer, thereby indemnifying the Council. In addition to the back-to-back agreement the Council will require from the developer, security in the form of a company guarantee that, in the event of default the Council can reclaim any default Funding to pass onto CCR.
- 5.5 Until the first claim for Funding is made the Council will have no liability under

the Grant Agreement. In addition, the Grant Agreement provides that the Council may terminate the agreement at any time prior to the first claim for Funding by giving CCR no less than 20 Business Days prior written notice. Should progress not be made on this site (for any reason), the agreement has a “no-fault” exit clause as well as a safeguard that no money will have been drawn down that requires repayment.

- 5.6 It is considered that there are significant benefits to be realised through the Council enabling this grant funding to be delivered. The grant will enable the former and now derelict coking works to be safely removed from the site and also enable the site which in parts, has significant levels of contamination to be remediated to level that will make it ‘oven ready’ for residential led development.
- 5.7 Current estimates suggest that the site could accommodate around 650 new homes plus associated infrastructure, open space and community uses.

6. EQUALITY AND DIVERSITY IMPLICATIONS / SOCIO-ECONOMIC DUTY

- 6.1 Each of the developments will be the subject of a Planning application. As part of the Planning application process there will be significant community involvement. All decisions in respect of these applications will be made by the Council’s Planning & Development Committee. Should the applications not be approved, the funding of the sites would not be progressed.
- 6.2 While the level of Funding has been agreed for all of these sites, the decision to award Funding in no way impacts the Council’s ability to determine the Planning applications. Planning applications for the sites will be considered by the Planning & Development Committee in accordance with planning legislation and on their own individual merits.
- 6.3 Due to the nature of the Funding (which is subsidising the development costs, albeit only in relation to ground conditions) it will amount to a Subsidy under the Subsidy Control Act 2022, advice has been obtained from CCRs solicitors (Pinsent Masons) to ensure that the funding complies with Subsidy Control Rules. This law is a very difficult area to navigate but it is considered that the Funding can be provided in accordance with the Subsidy Control Rules enable the scheme to proceed.

7. WELSH LANGUAGE IMPLICATIONS

- 7.1 There are no Welsh Language implications arising from this report.

8. CONSULTATION / INVOLVEMENT

- 8.1 There are no formal consultation requirements arising from this post.

9. FINANCIAL IMPLICATION(S)

- 9.1 Whilst the terms and conditions of the Funding mean that RCT would ultimately be liable to pay back any money paid out should the scheme at Cwm Coking Works fail (either not completed or fail to hit its targets), the developer will be required to enter into a back-to-back agreement with the Council before any Funding is claimed that effectively transfers the liability onto the developer themselves. In addition, the Council will make it a requirement that the developer offer a company guarantee to underwrite any repayments.
- 9.2 The process for the developer to claim the funding is to submit quarterly claims to the Council, with progress updates and relevant supporting documents. The Council will then review these and submit to CCR. CBRE has been appointed in a Project Monitor role and will assess the claims and validate the amount of money being claimed against the progress made. CBRE will then report to CCR to advise if the claim is valid and the total amount payable or may recommend a variation to the amount claimed. CCR will then make the payment to the Council and the Council will subsequently make the payment to the developer. The Council will not make any payments to the developer if funds have not been received from CCR.
- 9.3 This robust validation process ensures the Council is only making payments to the developer in arrears, after assessment by CBRE and after having received the funds from CCR.
- 9.4 In light of the above, it is considered that, as far as is reasonably possible, any financial implications have been mitigated and other than officer time there are no additional budget implications for the Council.

10. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- 10.1 As mentioned in 6.3 above, the nature of the Funding (which is subsidising the development costs, albeit only in relation to ground conditions) it will amount to a Subsidy under the Subsidy Control Act 2022, advice has been obtained from CCRs solicitors (Pinsent Masons) to ensure that the funding complies with Subsidy Control Rules. This law is a very difficult area to navigate but it is considered that the Funding can be provided in accordance with the Subsidy Control Rules enable the scheme to proceed.
- 10.2 The Council has entered into the Funding Agreement with CCR under the Council's lawful powers and the next step is to enter into a back to back agreement with the developer to indemnify the Council and ensure that the obligations of the Council in respect of the funding are passed to the developer.

11. LINKS TO THE CORPORATE AND NATIONAL PRIORITIES AND THE

WELL-BEING OF FUTURE GENERATIONS ACT

- 11.1 The development of housing provides a range of much needed accommodation within the County Borough. The development will include a percentage of much needed affordable housing (meaning that good quality housing will be available to a wide range of residents from different economic backgrounds).
- 11.2 The development of the Cwm Coking works site will bring significant environmental enhancement and enable the redevelopment of a brownfield that, without public intervention, would likely not otherwise be realised.
- 11.3 The site is in close proximity to existing facilities and infrastructure is considered to be sustainable. The development will need to include significant landscaping and SUDs that will enhance resilience to Climate Change and promote Carbon Reduction. Investment in housing also provides an ongoing stimulus to the local economy by encouraging spending and local supply chains.
- 11.4 It will also positively contribute to the to the Council's Corporate Plan priorities of economy, people and place and contribute to all seven wellbeing goals in the Well Being of Future Generations (Wales) Act 2015.

12. STRATEGIC OR RELEVANT TO ELECTORAL WARDS

- 12.1 Successful implementation of the CCR Fund will be of strategic significance to Rhondda Cynon Taf by meeting the aims and objectives of its LDP.

13. CONCLUSION AND NEXT STEPS

- 13.1 This report seeks authorisation to enter into a back-to-back agreement with the developer of the former Cwm Coking works site and once this has been completed authorisation to claim the £8 million of Funding from CCR to bring forward the remediation of the site.
- 13.2 Successful implementation will mean that a significant amount of good quality and affordable houses are provided in the County Borough.

Other Information:-

Relevant Scrutiny Committee
Climate Change, Frontline Services and Prosperity

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LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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Item: **CARDIFF CAPITAL REGION (CCR) HOUSING VIABILITY FUND**

Background Papers

None.

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