South Godstone Garden Community

Tandridge District Council

Further Analysis of Tandridge District Council’s Delivery Options

June 2019
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For and on behalf of GVA Grimley Limited t/a Avison Young
1. **Introduction**

1.1 Tandridge District Council (the Council) is seeking to bring forward a garden community at South Godstone. The decision to pursue a garden community is evidence led and a substantial amount of work has already been carried out by the Council to prepare its Local Plan to support the delivery. The Local Plan has been submitted to the Planning Inspectorate and the Examination in Public is expected in autumn 2019.

1.2 The Local Plan provides the overarching planning policies for South Godstone Garden Community (SGGC) and includes a specific policy for the garden community and an Area of Search for its initial boundary. The Council’s Area of Search is shown in Appendix I of this report. The Council intends to prepare an Area Action Plan to provide more detailed policy and a defined boundary for the garden community.

1.3 Since October 2018 Avison Young has been advising Tandridge District Council (the “Council”) in relation to the South Godstone Garden Community (“SGGC”) on all aspects from viability to delivery strategy, as attention turns increasingly to actual delivery of the scheme rather than planning promotion alone.

1.4 To date, Avison Young has undertaken a viability assessment of the scheme, has considered current land ownership and land promotion, and has discussed various delivery options with the Council including two delivery workshops. This is with the purpose of determining the Council’s preferences in relation to delivery with a view to ultimately arriving at a preferred delivery structure.

1.5 Avison Young have already prepared a Delivery Options note which was taken to the Strategy and Resources Committee on 11th December 2018. This further delivery options analysis document is a follow up to this, which explores in more detail the Council’s initial preferences around delivery.

1.6 A formal decision on a preferred delivery structure will require an Outline Business Case which will examine in detail the financial, governance, legal and commercial implications of the Council’s preferred route. In advance of this, however, it is necessary to examine these issues at a higher level, but across a broader range of options, in order to narrow the scope of potentially viable delivery routes for subsequent detailed testing.

1.7 Furthermore, it is important to consider the Council’s potential delivery options within the context of existing land ownership, land promotion and land assembly. Avison Young has provided advice to the Council on this.

1.8 This note sets out this higher level analysis, undertaking a qualitative and financial assessment of a number of delivery approaches with reference to the Council’s objectives and preferences for the scheme in the context of the practicalities around the current ownership, land assembly and land promotion activity within the Area of Search. This assessment provides a robust analysis to enable the Council to consider which of the high level options warrant investigation in further detail to determine an optimal structure.
Finally, it is important to stress that this note is separate from the Draft Local Plan submission which has already demonstrated that the land required for SGGC is available through the Housing & Economic Land Availability Assessments (HELAA). This note explores how best to deliver the SGGC given that availability.

2. **Strategic Objectives for SGGC**

2.1 Draft planning policy for the SGGC Area of Search includes a number of key parameters that represent the aspirations the Council has for the scheme in planning terms. We rehearse these here as these will provide a framework for the preferred solution.

2.2 We have discussed these strategic objectives with the Council as well as other high level objectives for the development, particularly related to the nature of the place that the Council wants to see delivered, including Garden Village principles, and the requirements set out in Section 33 of Our Local Plan: 2033 (January 2019), including a requirement for comprehensive development.

2.3 From these discussions and with reference to the draft Local Plan, the strategic objectives for the project are to:

- increase the supply of new homes including affordable, with the current policy proposal being c 4,000 homes at a density of 35dph;
- deliver a new community in accordance with Garden City Principles including integration of green spaces, land value capture and long term stewardship;
- deliver council nominations affordable units;
- create a long lasting sustainable neighbourhood that is self-contained including local employment; and
- be infrastructure-led, with community infrastructure including new schools, a health centre, sports facilities and local amenities, as well as 100ha of continuous open space; and transport improvements.

2.4 The strategic objectives set out above are an important consideration in selecting a preferred delivery option route for SGGC. As will be shown in section 6 of this report (qualitative analysis) there are some delivery options which give the Council greater control over achieving these strategic objectives than others, though these will need to be balanced out by potential financial commitment and risk under section 7 (financial analysis).

3. **The Site / Area of Search**

3.1 The Council has already carried out a considerable amount of work to prepare its Local Plan including consideration of the boundary of the Area of Search for SGGC. We understand that the majority of the land within the Area of Search (Appendix I) has been put forward to the Council by landowners and promoters and assessed within the Council’s Local Plan evidence base for planning purposes in terms of whether the
land is available for development, principally through the Council’s Housing and Economic Land Availability Assessment (HELAA).

3.2 The Council’s Legal Team have carried out an initial review of current ownership across the majority of the Area of Search and we have relied on this information.

3.3 The land within the Area of Search is all currently designated as Green Belt and mostly is comprised of agricultural land, though there are also a number of residential and commercial interests. The commercial interests are concentrated on the western side of the southern section of the Area of Search, with commercial uses including plant nurseries and minor retail uses.

3.4 Based on the information provided to date, we have calculated that the Area of Search covers a total area of around 459 hectares (1,134 acres) excluding the existing settlement of South Godstone.

3.5 Based on the Council’s aspiration for a density of 35 dwellings per hectare and 4,000 units plus making an allowance for the required 100 hectares of continuous green space, commercial and social facilities and associated infrastructure, as set out in the draft local plan policy, we estimate that circa 225 hectares / 556 acres would actually be required to deliver the scheme.

4. **Current Ownership and Promoters**

4.1 There are approximately 103 plots in total (excluding the 356 small plot holders within the ‘trio land’). Of these 103 plots, there are approximately 29 land owners with significant sized plots greater than 135 acres, which combined total over 1,050 acres of the 1,134 acres which comprise the wider Area of Search.

4.2 There are also around 356 small plot owners within the ‘trio land’ at the far south east of the site who were sold plots on an investment basis, though they were sold without access. Most of the owners are believed to reside in India and Pakistan.

4.3 Whilst the land ownership is complicated and in multiple ownerships with a large number of owners, there are a number of land promoters who have been in discussions with some of the landowners and are seeking to assemble parts of the site through option and promotion agreements.

4.4 Avison Young was instructed to review all engagement the Council has had between land owners, land promoters and other strategic parties to ensure that its understanding of the current position is up to date and so that we could provide analysis on land acquisition matters and what potential impact this may have on the chosen delivery option.

4.5 Our review confirmed that the Council has so far acted in these discussions in their role as the local planning authority; as such, we found that no commercial negotiations had taken place, though arising from our review, there are a number of key issues around the current land owner and land promoter situation which could have a bearing on the council’s preferred delivery option route.
5. Key Considerations Informing Delivery Options

Ability of the Promoters to Assemble the Site and Deliver SGGC

5.1 There is currently no single party or consortium who has the ability to obtain vacant possession of the site and the site remains in multiple ownership with a large number of owners. At present there is no certainty from any promoter that they will be able to acquire the required third party land by negotiation, or that any of the option/promotion agreements will ever actually be exercised. Whilst the principle of development of the land is established, the current agreements may not be the mechanism by which they are brought forward.

Land Value Expectations

5.2 ‘Strike rates’ are often contained within land promotion or option agreements and ordinarily refer to the minimum sum that would be payable to the land promoter in order to allow them to trigger their agreement with the land owner and allow the land to come forward for development. We have witnessed some historic and current agreements which contain strike rates far in excess of what we would ordinarily expect and, indeed, land value expectations more generally speaking are believed to be high. This is however not uncommon with strategic development land.

Reputational Considerations

The Council is aware of some reputational risk around dealing with some promoters. It has taken a proactive approach in gaining further information on the background of these parties. Should the Council decide to work with an existing partner within the boundary area, this will be an informed view based on appropriate due diligence (money laundering regulations etc.). However, it may be a factor in a preference for the Council to select its own partner.

Summary

5.3 Although it is a matter for the Council to decide, based on our review to date, in our professional opinion we consider it likely that the Council will need to use its CPO powers to some extent to bring forward delivery of SGGC.

5.4 In the December 2018 Planning Policy Committee it was resolved that the Council is prepared to use these: “the ambition to increase the rate of delivery of homes in the South Godstone Garden Community be noted and, to that end, the acquisition of land by the Council within the area of search for the South Godstone Garden Community, including by use of its compulsory purchase powers if necessary, be agreed in principle.”

Further, in the Draft Tandridge Local Plan (Regulation 22 Submission, January 2019), it was updated within Strategic Policy SG01: South Godstone Garden Community (page 263) that “The Council will take a proactive role to delivery (sic) policy objectives for the Garden Community, including through the use of statutory powers if needed and where possible.”
6. **Delivery Options**

**Delivery Approaches**

6.1 The practical matters outlined above concerning current land ownership and promotion activity in the Area of Search may impact on the Council’s preferred delivery option route.

6.2 In an earlier note prepared by Avison Young we described three high level delivery approaches available to the Council, categorised by the extent of direct Council involvement in delivery. These approaches are, as follows:

   **A. Planning-led.** The Council relies upon its planning powers only to control delivery of the Garden Community;

   **B. Collaboration-led.** The Council proactively takes land ownership within the scheme in order to drive engagement and agreement between different landowners and promoters. Some form of equalisation is likely to be necessary between the landowners i.e. sharing of costs and returns; and

   **C. Council-led.** A more interventionist approach where the Council acquires potentially all land necessary to deliver the scheme (other landowners/promoters could still deliver a proportion assuming they contribute to scheme costs), and would then deliver the scheme either directly itself or with a delivery partner;

6.3 These are the options already taken to Strategy and Resources Committee (with slight revisions for greater clarity and alignment with subsequent discussions). The Draft Briefing Note presented to committee is provided at Appendix II. Committee has already resolved that approach A is unlikely to be appropriate as it will not provide enough Council control over the form of the scheme and the delivery of infrastructure to deliver on the objectives for the scheme. This approach has therefore been discounted.

6.4 However it was resolved that both approaches B and C should be examined in greater detail, with exploration of the different delivery options that exist within each, in order to further refine preferences. Different high level options under each of approaches B and C are described in detail below.

**Collaboration-led Options**

6.5 Delivery within approach B will rely upon the cooperation of other landowners and their agents/promoters/developers, and require collaboration and equalisation agreements between them. These agreements will provide a framework for parties to work together and a mechanism for the sharing of costs and returns to ensure that no land is over-burdened by infrastructure that benefits others, and by the same token no land is significantly advantaged without paying its share.
6.6 The Council’s participation in this process is likely to depend on it having some land ownership, preferably of strategic importance, so that it holds a strong negotiating position. It may be possible, however, for the Council to drive this process without land ownership.

6.7 As set out earlier, the Council may not wish to work with certain promoters.

6.8 We have set out two iterations within broad collaboration led options, as follows;

- Collaboration without land ownership – charging third party land; and
- Collaboration with part land ownership

6.9 Further detail around each of these options along with a high level structural diagram can be found in Appendix III.

**Council-led Options**

6.10 There is the possibility of the Council driving delivery directly by assembling land and securing its own delivery partner. This could apply for a large proportion or potentially all of the land required, certainly all of the land where the landowner has not been willing to participate in one of the other collaboration options described earlier in section 6.

6.11 This approach will require land assembly by the Council either through private treaty or, if necessary, CPO, as already referenced in this report. The Council will also have to engage in a procurement process to find a delivery partner, unless it would consider delivering directly itself. We would envisage that the Council, with its partner or itself, would deliver all of the infrastructure and control delivery of the scheme, either through serviced land disposals or direct development.

6.12 We have set out three iterations within broad council led options, as follows;

- Council-led partnership – Development Agreement;
- Council-led partnership – JV; and
- Full Council delivery.

6.13 Further detail around each of these options along with a high level structural diagram can be found in Appendix IV.

7. **Qualitative Analysis**

**Qualitative Parameters**

7.1 The characteristics of each of the delivery options can broadly be separated into the following categories:
• Control – Council control over development including over timing, quality, and the form of development including delivery of infrastructure;

• Risk – Council exposure to risk through participation in development including funding risk, cost risk and market risk if involved in commercial activity;

• Return – potential scope of financial returns to the Council, directly related to risk participation;

• Resource – the extent of financial and human resource and expertise required from the Council to participate; and

• Practical considerations – including any reputational issues in dealing with landowners or likely difficulties in securing necessary agreements.

7.2 These categories can be used as a method of comparing the relative strengths and weaknesses of the different options. Which option or options may be preferred will depend on the Council’s individual preferences, explored below.

**Delivery Objectives**

7.3 Strategic objectives for SGGC have already been described in section 2. In workshop discussion with the Council we have also considered what preferences the Council may have in principle regarding how to deliver the SGGC, and the Council’s potential role. Key points included:

• the Council is prepared in principle to participate in risk provided it is managed and minimised for a given level of anticipated return and in the context of any other benefits it would provide;

• the Council acknowledged it has the potential to borrow from Public Works Loan Board (PWLB) in order to commit financial resource to the scheme;

• in the Council’s view the reputation and risk in dealing directly with some of the existing promoters was a real one, which it would be preferable to avoid;

• generally the Council is keen to progress as fast as possible, including early delivery of affordable homes, but there is no specific requirement to drive delivery of the scheme at a pace faster than the market norm;

• it was acknowledged that CPO powers may be required to deliver the scheme given the fractured existing ownership and high strike prices of existing agreements; and

• as part of the strategic objective of controlling key scheme parameters, new Council nominations affordable units should be secured, using the Council’s in-house investment vehicle Gryllus, or via a partner.

Bearing these acknowledgements and preferences in mind, below we provide indicative qualitative scoring for each of the delivery options.
Qualitative Assessment

7.4 A schedule providing full reasoning for the qualitative evaluation of each option is provided at Appendix V. A simple score of 1-10 is applied for each characteristic to each option, reflecting the extent to which that characteristic is a strength or weakness in each case and in relative terms. A high score demonstrates a strength and a positive for the Council in meeting the project objectives. This includes delivering greater control, less risk, greater return and requiring less resource. The scoring is summarised below:

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<td>Control</td>
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<tr>
<td>Risk</td>
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<tr>
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<tr>
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<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Practical Considerations</td>
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<td>5</td>
<td>5</td>
<td>5</td>
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<td>Total</td>
<td>20</td>
<td>21</td>
<td>28</td>
<td>29</td>
<td>27</td>
</tr>
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</table>

7.5 As described in Appendix II above, we consider it unlikely in practical terms that the Council would seek a DA structure for delivery of all of the infrastructure given the lack of control it would then have over disposal of serviced parcels and actual delivery. Utilisation of a DA is therefore more likely for delivery of parcels following Council assembly of land and delivery of infrastructure, and the scoring above reflects this scenario.

7.6 It should be acknowledged that this scoring is subjective and relatively simple, but it does serve as an indication of the relative differences between the options. One way to increase the robustness of the approach would be to apply weightings to the categories according to the relative importance of each to the Council.

7.7 From this high level assessment, however, it is apparent that the relative lack of control afforded by the collaboration approaches, plus the practical difficulties in actually securing effective agreements with multiple landowners/promoters, may make these options relatively less attractive.

7.8 The scores of the Council-led approaches are more even and may require more detailed analysis to separate robustly. This may be achieved in part though the additional of financial analysis in the following section.
8. **Financial Analysis**

8.1 At the present stage, with multiple and quite varied delivery options being considered, it is appropriate to undertake financial analysis at a high level, establishing an order of scale of potential financial commitments and returns associated with each option. It is designed to look at the relative differences between the options in order to help inform which option(s) should be taken further for detailed analysis within an Outline Business Case.

8.2 The modelling at this stage, while exploring the options described, does not look to presuppose a contractual structure for the JV as this will require much more in-depth work at the Outline Business Case stage to define. As such it takes a more simplistic view on the approach and assumes an equal investment from both the public and private sector on all expenditure with equal returns stemming from the value created.

8.3 The modelling includes some additional variant options based on direct delivery or delivery in the form of disposal of serviced land plots.

8.4 For all the analyses, we have made some consistent assumptions:

- infrastructure costs, both off-site and on-site to deliver the land as serviced plots, are based on the estimates in the SGGC Financial Viability Assessment excluding elements assumed to be paid for by HIF;
- land assembly costs are based primarily on the estimates in the SGGC Financial Viability Assessment;
- the modelling assumes a continuous cashflow across all phases with returns recycled across phases when realised and funding requirements based on the whole development across all sites rather than individual phases. This has the implication of higher funding requirements and peak exposure than would be expected in practice;
- the total serviced land development value for the scheme is assumed to be £368.7m based on a residual appraisal of the whole scheme excluding upfront infrastructure costs; and
- the modelling assumes 40% affordable housing, which is emerging planning policy and in excess of the current policy requirement for 34%.

8.5 Development profit is only included in those options where the Council is participating in risk and therefore receiving development proceeds. Land receipts are included where the Council is to dispose of plots. If developing directly this value is factored into Council development returns.

8.6 The modelling assumes the following key milestone dates:

- delivery partner selected/collaboration agreements signed (dependant on delivery route selected) within the time period Autumn 2021 Autumn 2023;
- Area Action Plan (AAP) adopted in H1 2023;
- planning permission granted earliest mid 2023 but up to Spring 2025;
• up-front infrastructure delivery commences 2025;
• development commences 2027; and
• final house completes 2041.

8.7 There are of course numerous iterations that can be run on the assumed timeline including procurement of a delivery partner and the potential CPO process, which we will be working on further with the Council team.

Financial Analysis Summary

8.8 The table below summarises the key financial outputs for each option:

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<tbody>
<tr>
<td>Council Infrastructure and land assembly costs</td>
<td>£173m</td>
<td>£124m</td>
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<td>£124m</td>
<td>£248m</td>
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<tr>
<td>Gross Council Return (land and profit)</td>
<td>£173m</td>
<td>£203m</td>
<td>£406m</td>
<td>£203m</td>
<td>£358m</td>
<td>£406m</td>
<td>£715m</td>
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<td>Finance cost</td>
<td>-</td>
<td>£22m</td>
<td>£43m</td>
<td>£43m</td>
<td>£45m</td>
<td>£43m</td>
<td>£90m</td>
</tr>
<tr>
<td>Net Council return</td>
<td>£0m</td>
<td>£57m</td>
<td>£114m</td>
<td>£57m</td>
<td>£189m</td>
<td>£114m</td>
<td>£377m</td>
</tr>
<tr>
<td>Peak Financial Exposure</td>
<td>£96m</td>
<td>£52m</td>
<td>£104m</td>
<td>£52m</td>
<td>£107m</td>
<td>£104m</td>
<td>£214m</td>
</tr>
</tbody>
</table>
## 9. Summary and Conclusions

9.1 We have undertaken qualitative and quantitative analysis of the options and these are summarised below.

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<td>Net Council return</td>
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<td>£114m</td>
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<tr>
<td>Peak Financial Exposure</td>
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<td>£104m</td>
<td>£52m</td>
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<td>£104m</td>
</tr>
<tr>
<td>Total Qualitative Score</td>
<td>20</td>
<td>21</td>
<td>28</td>
<td>28</td>
<td>29</td>
<td>28</td>
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9.2 The financial analysis has included variants of some of the options which were presented in the qualitative section. We have therefore assessed whether these options would receive different qualitative scoring and have reflected this slight variance in the table above.

9.3 Given this analysis we would make the following comments:

- overall the analysis appears to suggest that the lack of control and practical issues in delivering based on a collaboration approach may limit the attractiveness of these options;
- for Option 1, despite a lesser involvement in delivery, and therefore reduced risk, the potential requirement for the Council to deliver much of the up-front infrastructure provides exposure to costs and funding requirements that are similar to other options where the Council would have greater control;
- for illustration purposes, the figures for Option 2 are based on the Council delivering 50% of the scheme, through disposal of serviced plots, which provides for the same financial results as participating in a 50/50 JV to deliver the entire project on the same basis (Option 4a). However Option 2 will provide far less control to the Council over delivery of the scheme than the JV option, and requires collaboration agreements to be secured with other landowners/promoters;
- in qualitative terms we consider utilising a DA structure or delivery of up-front infrastructure will be unlikely to afford the Council sufficient control over the actual development of the scheme. As such we
consider a DA option is likely to entail the Council delivering upfront infrastructure and then utilising DAs for delivery of serviced parcels, and this is qualitatively the same as option 5a;

- of the JV options, both serviced parcel and direct development options have been tested. Which of these will be undertaken in practice will depend on the Council’s appetite for risk and provision of funds at the time. It would be possible to set up a structure that could deliver under either approach for a given plot. This would give the Council flexibility to manage its exposure, may help to increase the pace of delivery, and could allow for the variation of control over different elements; and

- full Council self-delivery of the scheme, with direct development, offers the most control and potential return but also risk exposure, and a very significant funding requirement. This would be a very significant undertaking requiring a lot of internal resource at the Council to manage the process, including development expertise for similarly large scale projects.

Next Steps

9.4 On review of this report it may be possible for the Council to discount one or more of the delivery options, reducing potentially viable options to a smaller shortlist. The results suggest options within approach C may be preferable, and that these should be the focus of further analysis.

9.5 This further analysis would allow a robust Outline Business Case (‘OBC’) to be prepared for a preferred option. This preferred option will include details of the preferred delivery structure including matters such as:

- whether the structure should incorporate the ability to invest in the long term in assets to be developed, rather than develop them alone;
- whether and how to incorporate the Council’s investment vehicle, Gryllus, into the structure;
- how to secure deliver of Council nominations affordable units, including potentially delivering directly incorporating HRA headroom; and
- when to seek a delivery partner, if one is required, in relation to the various stages between now and starting on site, for example allowing a partner to input into an AAP or support in land acquisition.

9.6 The OBC will also include full details of the various cases for the preferred option, including strategic, commercial, financial and governance.
Appendix I
Area of Search
1. **Introduction**

1.1 This note sets out at a high level the broad approaches to delivery of the proposed South Godstone Garden Community available to Tandridge Council.

1.2 The proposed Garden Community Local Plan policy and other documents include a number of key requirements which must be delivered if the scheme is to be successful in terms of sustainability and capturing the benefits of development for current and new residents. These include:

- delivery of infrastructure as identified in the draft Infrastructure Delivery Plan, including transport upgrades, utilities, green infrastructure and community assets. The latter include a new health centre, a secondary school and 3 primary schools. It is also important that infrastructure is delivered as early as possible;
- continuous 100ha of open green space. This is listed separately from the other infrastructure above due to its large land take distinct from the development itself;
- delivery of 4,000 homes at an average density of 35dph, with high levels of affordable housing including an aspiration for 25% of total units with nominations to the Council; and
- long term management and stewardship of the green spaces and public realm.

1.3 This note examines approaches to ensuring that these objectives are secured.

2. **High Level Approaches**

2.1 In broad terms, the potential approaches to delivering the Garden Community can be characterised by the extent to which the Council itself is involved in delivery, beyond the initial policies through the Local Plan and the subsequent Area Action Plan and in its role as Local Planning Authority in determining planning applications across the site. The approaches can be categorised as follows:

2.2 This approach is for the Council to rely upon its planning powers only to control delivery of the Garden Community. Following the adoption of the Local Plan, the Council intends to set more detailed policy through an Area Action Plan (‘AAP’). Following this, the Council’s only further involvement would be through pre-application discussions and development control. This will steer the scheme to some extent and allow
the Council the ultimate decision as to whether to grant the scheme, but provides no direct control and places heavy emphasis on the AAP to tightly define the scheme.

2.3 Funding for infrastructure could be secured through s106 and CIL only under this approach, and all development would be undertaken by the market acting independently of the public sector. The actual delivery agents are likely to be private developers following purchase from landowners and promoters.

**Landowner-led**

2.4 This approach involves the Council proactively taking land ownership within the scheme in order to drive engagement and agreement between different landowners and promoters. In order to deliver some of the requirements of the scheme listed above some form of equalisation is likely to be necessary between the landowners. That is, a sharing of the cost burden of infrastructure between landowners regardless of where that infrastructure is physically located. This is linked to the requirement for the scheme to be delivered comprehensively. The alternative may be that the parts of the site with the most valuable uses and least infrastructure are delivered and the rest are not, and therefore the wider scheme benefits are lost.

2.5 Equalisation will need to be structured formally between landowners. If the Council is one of those landowners, it can drive that negotiation and legal drafting. To be a leading voice in that discussion, the Council would require a significant landownership, either by owning strategic plots necessary for the scheme to be delivered at all, or a large proportion of the land ownership in general. This ownership could be secured through private treaty acquisition, options, or the use of compulsory purchase powers (if justifiable and appropriate).

2.6 This approach wouldn’t necessarily mean the Council is directly involved in development itself, but it would be in early stage design and in setting the legal framework for different landowners/promoters to deliver a comprehensive scheme. The AAP and development control processes would also apply as in the planning-led approach.

2.7 Funding for infrastructure can be secured through s106 and CIL, and also potentially through the uplift in value of the Council’s land holding, depending on when and at what price the Council’s land is bought and sold. Again the actual delivery agents are likely to be private developers following purchase from landowners and promoters, though in this case the Council may have the ability to directly deliver itself or to choose a delivery body for land in its ownership.

**Partnership Approach**

2.8 A more interventionist approach would be for the Council to directly drive delivery of the scheme. Using its compulsory purchase powers, the Council would acquire potentially all land necessary to deliver the scheme (other landowners/promoters could still deliver a proportion assuming they contribute to scheme costs), and would then work with a delivery partner. In adopting this approach, the Council would have greatest control over the form and delivery of the scheme as it would stipulate conditions and requirements when selecting a delivery partner. This would include requiring delivery of infrastructure and a comprehensive approach.
2.9 There are many different types of partnership arrangements, with different levels of direct Council participation in development risk and returns and different types of partner and models of delivery. At the least participatory end of the scale, the Council could act as the compulsory purchase authority, cashflowing acquisition costs but being reimbursed via an indemnity with the partner, and defining the nature of the scheme to be delivered without any direct participation in delivery. At the opposite end of the scale, the Council could act as full 50/50 partner, contributing half of all capital requirements, sharing in risk and also receiving half of the returns of the scheme.

2.10 How the Council nominations affordable housing units would be secured would also vary under these approaches, potentially paid for directly or via sacrificed land value or profits. The actual model of development may also vary, with some partners preferred to undertake more or less direct development of housing and others geared primarily for disposal of serviced land parcels.

2.11 The feasibility of these different options that sit within the broad category of partnership approaches, in terms of financial viability for the partner, and capital and resource commitments from the Council, needs to be explored in more detail with the Council and with the benefit of financial modelling before any decision can be made as to the preferred option.

2.12 Generally though all these options come within the broad approach of the Council taking an active role in securing delivery of the whole scheme, and this is something that can be considered as a principle.

2.13 The AAP and development control processes would still apply as above. Funding for infrastructure can also be secured through s106 and CIL as above, though in this case it can also be secured through development proceeds. This could be by requiring delivery of all the infrastructure as part of selecting a partner, so it is factored in as a scheme cost, or, if the Council is itself participating in development risk and profit, recycling its receipts into infrastructure delivery. There is potentially no need for equalisation arrangements with other landowners as control has been secured across the whole site.

2.14 In this case the delivery entity would be the Council’s selected partner or a vehicle formed between the Council and partner.

3. Strengths and Weaknesses

3.1 The table below summarises the key features and the strengths and weaknesses of each of these high level approaches:

<table>
<thead>
<tr>
<th>Planning-led</th>
<th>Landowner-led</th>
<th>Partnership Approach</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council resource requirement</td>
<td>Medium – delivery of AAP and running development control, plus acquiring land and negotiating landowner agreements. May require CPO. Procurement for delivery for extent of land owned</td>
<td>High - delivery of AAP and running development control, securing CPO, procurement of partner for delivery of whole scheme. Potential on-going role in partnership vehicle</td>
</tr>
<tr>
<td>Low - delivery of AAP and running of development control process only</td>
<td>Low - limited to AAP and development control</td>
<td>High - full control over delivery entity, and parameters for whole</td>
</tr>
<tr>
<td>Control over nature and delivery of the scheme</td>
<td>Medium - AAP and development control, plus direct control over extent</td>
<td></td>
</tr>
</tbody>
</table>
## Risks

4.1 Development risk is mentioned in the table above, by which we mean active participation in development itself, building and selling land and assets. There are however a number of other project or scheme risks associated with each broad delivery approach, as summarised below:

<table>
<thead>
<tr>
<th>Planning-led</th>
<th>Landowner-led</th>
<th>Partnership Approach</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>of land owned</td>
</tr>
<tr>
<td>Cost to Council</td>
<td>Low – planning-related costs only</td>
<td>Medium – planning-related costs, professional costs for landowner agreements, land acquisition costs and procurement costs for extent of land owned</td>
</tr>
<tr>
<td>Securing funding</td>
<td>Low – s106 and CIL only</td>
<td>Medium – s106 and CIL, potential receipts from extent of land owned</td>
</tr>
<tr>
<td>Development risk</td>
<td>None</td>
<td>Potential for Council to take risk in development of its land parcel, shared in partnership</td>
</tr>
</tbody>
</table>

- Unaided, the market may fail to reach agreements necessary to share the infrastructure burden, and therefore leave them undelivered
- Potential for piecemeal development, though discouraged by planning
- s106 and CIL contributions unlikely to meet infrastructure costs, no ability to secure value through other means
- Even if one dominant landowner, no compulsion of delivery following grant of planning permission
- Potential for slow pace of delivery and potentially more susceptible to market movement, no Council control over pace of delivery
- Even with strategic ownership it may not be possible to agree terms for delivery with other landowners
- Market risk – may not find a suitable partner through procurement for development of Council element – dependent on market and commitments at the time
- Council may pay to acquire land that is a liability if the scheme is not delivered (though should be able to exit)
- Potential for piecemeal development, though discouraged by planning
- s106 and CIL contributions unlikely to meet infrastructure costs
- Securing funding through land uplifts limited if land purchased at development values and/or if the Council exits following completion of equalisation agreements i.e. before uplifts fully realised
- No compulsion of delivery
- Market risk – may not find a suitable partner through procurement – dependent on market and commitments at the time
- Council may pay to acquire land that is a liability if the scheme is not delivered (though should be able to exit)
- CPO may not be confirmed – compelling public interest requirement adds further examination process
<table>
<thead>
<tr>
<th>Planning-led</th>
<th>Landowner-led</th>
<th>Partnership Approach</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>following grant of planning permission, other than potentially for the Council’s ownership</td>
<td>• If required, CPO may not be confirmed – comprehensiveness required</td>
</tr>
</tbody>
</table>

5. **Conclusion**

5.1 There is a range of delivery approaches available to the Council to ensure the South Godstone Garden Community is not only delivered but is so in accordance with draft policy with all the requirements placed on it. The optimal approach will depend in large part on the Council’s appetite for involvement in delivery, and its preferences regarding control, risk and land assembly.

5.2 Of most importance will be ensuring that key scheme characteristics such as the 100ha open space, delivery of off-site infrastructure and provision of affordable housing, including housing with nominations to the Council, are secured. It may not be possible to secure these through planning controls alone, and therefore it may be necessary for the Council to take a more active role to deliver all the objectives and requirements for the Garden Community.

5.3 More interventionist approaches carry greater risk and require more resource (financial and in terms of personnel and expertise), but provide greater control over the timing and form of development, and greater scope to capture the benefits of development for the wider community.
Collaboration without land ownership - charging third party land

If the Council has no land ownership it may still incentivise cooperation and maintain a bargaining position by funding and delivering up-front infrastructure. The Council’s contribution would unlock the site both in planning terms (as conditions may be imposed requiring early delivery of infrastructure before homes) and practical terms (e.g. delivering road improvements necessary to open capacity for development). In this way the delivery of the scheme may not be possible without the Council’s participation and therefore the Council’s requirements for collaboration and equalisation agreements are likely to be heeded.

This arrangement would work broadly as illustrated in the diagram below:

The Council enters into a collaboration agreement with landowners, and landowners would all be party to the same agreement which would also govern relations between each other. This covers working relationships, governance, timescales etc., but crucially would also establish sharing of costs and values. It includes defining the infrastructure works which the Council is to fund and deliver, and include agreement for the landowners to reimburse this up-front cost, most likely with interest, from their proceeds of disposing or developing their land. The apportionment of cost contributions between the landowners will need to be negotiated but will be based on the scale of each landowner’s development unlocked by the infrastructure, on a site area or development floorspace basis for example. There may also be some reflection of the strategic importance of each holding. For example, landholdings that provide access to others may be rewarded with a greater share of return, depend on the progress of negotiation between the parties.

There may also be a requirement for some sharing of the proceeds between landowners, for example from those with developable land to those where infrastructure is to be located.
To include and govern all these matters effectively the collaboration agreement should ideally be comprehensive with all stakeholders party to the same agreement. It may be possible however for there to be a variety of agreements between the Council and individual landowners, and between the landowners themselves. The Council would however still need oversight over each agreement to ensure its ability to reclaim the up-front infrastructure cost it not compromised.

It should be noted that whilst some infrastructure is due to be delivered ‘off-site’, e.g. M25 junction 6 and A22 improvements, and some (though not all) of the train station improvements, much is proposed to be within the scheme. This includes the 100ha of continuous open space, as well as various community facilities and amenities. The importance of this distinction is that the ‘on-site’ works will require the cooperation of landowners, including a willingness to undertake works themselves or allow works to be undertaken on their land. In the event those landowners do not cooperate, the Council may still need to rely upon CPO powers and acquire land even under this option. This may include, for example, the delivery of elements of train station access.

In order to secure the repayment of the Council’s up-front infrastructure contribution, it is likely to be necessary to charge the landowners’ land. Without this the Council would not have any enforceable remedy against non-payment. It may be very difficult to get landowners to agree to this requirement.

More broadly, it may be difficult to secure the extent of commercial agreements required between all the landowners to make the collaboration required under this option workable, even if all are agreed to the principle of development. Even if this option were to be preferred it is likely that some consolidation of control and ownership between the landowners will be required.

**Collaboration with part land ownership**

There is also the option to collaborate with other landowners and promoters, but with the Council having some land ownership. This option is much the same as the above, with the need for collaboration and equalisation agreements with all the same contents as before, only the Council will itself be one of the landowners commercially negotiating a fair split of costs and values between the parties.

Land ownership of some form would be beneficial to the Council in any event, giving it a greater negotiating position, but would also allow some direct land value capture and less reliance on charging third party land to secure payment for infrastructure. Capturing the cost of infrastructure will form part of the overall negotiation of the agreements and be taken into account in determining the share of value the Council should receive for its land ownership, rather than necessarily having to be secured with reference to other land.

In this option, the parties could pool contributions to pay for infrastructure costs, each delivering infrastructure required on its land and sharing the cost of all works equally, as below:
Alternatively, the Council and landowners could agree, if selling land on a serviced parcel basis rather than developing directly, to dispose of that land with obligations for purchasers to deliver the infrastructure, as below:
In these examples the Council is passing some of the obligations to fund and deliver infrastructure to others. This means less capital commitment from the Council, but also less control over ensuring all the requirements for the community are actually met.

There is the opportunity for some form of hybrid between this option and the first, where the Council still has responsibility for delivering all of the infrastructure whilst having land ownership of its own. The options are presented as distinct for the purpose of explaining discrete differences, but in reality they may be combined.
Appendix IV
Council Led Options (Within Option C)
Council-led partnership - Development Agreement

Development Agreements are contracts with a development partner for the delivery of a specific project. Typically they include a lot of detail regarding objectives and parameters for the development of a site, either with reference to a planning permission or (more commonly) with the intention that the partner will secure planning permission in accordance with the defined parameters.

The contract can be used to set delivery milestones, programme and place other restrictions on the operation of the delivery partner, for example with respect to procurement of supply chains. It can also include wider goals such as those related to sustainability or social value, though these can often be difficult to define.

DAs therefore afford control to the Council over the form and nature of development brought forwards. However, the nature of DAs is such that once signed, controls tend only to be negative and reactive in nature. Typically the development partner submits proposals for approval which could be rejected if not aligned with the project objectives, but without scope for involvement in reshaping those proposals, and once in operation poor performance is disincentivised with the threat of breach of the agreement. This is something of a blunt instrument and as a result generally thresholds for poor performance (e.g. delays, poor sharing of information etc.) are quite high.

There is the potential for some risk and profit participation by the Council through DA structures. Typically a DA would provide for a land receipt upfront akin to simply selling the site (though some or all of this receipt can be deferred and/or subject to the performance of the scheme) with some overage in addition. However in this instance the Council has no existing land ownership so would either have to have secured ownership prior to entering into the DA, or use the DA as a mechanism for assembling the site and governing the activities of the partner. Whether the Council will see a return for the assembled land will depend on whether it or the partner is paying for it. If the partner is paying for land assembly then the Council’s role,
and lever to attract a partner in the first place, is only that of acquiring authority for CPO purposes, and planning authority.

The Council could use a DA to govern the delivery of infrastructure or development, or both. Subject to any investment the Council wanted to make, responsibility for funding would fall to the partner, though as a result much of the return would as well. The Council could, however, specify exactly the parameters of the scheme it would want delivered including in relation to affordable housing and community infrastructure. There is also the potential to secure a partner early and have them assist the Council in stakeholder engagement or the AAP process etc.

If the Council were to use a DA structure for the delivery of up-front infrastructure as well as development it should be noted that the Council’s control over the delivery of the infrastructure would be diluted. The Council’s ability to influence the timing of infrastructure delivery, and its form and locations would be limited to the extent to which it is able to be specific and precise in its requirements when drafting the DA. It may be difficult to negotiate changes over time without there also being changes to agreed land values or other commercial parameters.

It is also likely that the DA partner in such a structure would be a land promoter specialised in preparing land for development and disposing of serviced parcels. Though it may directly develop some of the land this is likely to be a primary business model. This is likely to make it difficult for the Council to have any control over the timing of land disposals and hence receipts, which could have the effect of the Council having to bear the cost of acquiring land up-front for significant periods. The Council would also be a step removed from the delivery of development, having some control in its DA over delivery of infrastructure but not necessarily the form and nature of the development itself.

For these reasons it is perhaps more likely that a DA structure would be used for the delivery of the development itself, but for the delivery of infrastructure to be undertaken by the Council separately.

It should be noted that the partner in this option may be one of the existing landowners or promoters, though given the scale of the opportunity it may be necessary for the Council to procure the partner through a competitive process unless there were an existing landowner or promoter with a large degree of control over the site.

**Council-led partnership - JV**

Joint Venture is a formal partnership with another party based on joint decision-making and control over development. They can be contractual or corporate, i.e. formed as a distinct vehicle, with the benefits of each needing to be explored on a case by case basis.

Taking a corporate JV approach, a separate entity is formed in which the parties are shareholders. This is the entity which controls the development. Typically JVs take a ‘50/50’ structure, where the parties have equal membership, decision-making rights and controls, commitments to investment and shares of profits.

Under this delivery option typically a Council would invest its land into the JV in order that the Council receives its share of profits. The Council’s land is its equity investment. In a 50/50 structure this will be matched by the partner in the form of cash, as well land if the partner has its any ownership, and the remaining funds required to deliver the development will be met by debt financing. As with the DA option
above, the partner may be an existing landowner or promoter rather than a third party, though this would either have to be the result of significant existing control or successfully winning an open procurement process.

It will be necessary to capitalise the JV sufficiently to secure this debt, typically equity will be required up to 40% of the total development cost requirement. In the event the Council’s share of this requirement (i.e. 20% of overall costs) is not met by land value, its contribution may need to be topped up with cash. In this case, where the Council has no land ownership, this will only apply if the Council secures land prior to entering into the JV. Otherwise, the Council will not have land to invest as equity and will instead invest entirely in cash, in the same way as the Partner. There may also be the potential to use mezzanine finance or subordinated debt to reduce the equity requirement in this case.

Under this structure the Council is directly participating in development risk, in combination with the partner. Returns are only realised in the event the JV is profitable. Returns in the form of profits are issued only after all debt finance is paid off.

It is important to note that under a JV land receipts will be treated as capital and profits, accounted as revenue by the Council.

The structure diagram below illustrates these cashflows:

In terms of governance, in a 50/50 structure all development decisions are made jointly between the parties. This means the Council has direct control over matters including design, planning submissions, programme and phasing, uses and marketing. That said, the control is fettered given all decisions must be made jointly. If there is no agreement between the parties this leads to ‘deadlock’; in other words each party effectively has a veto over the other. This can ultimately lead to termination. To help prevent this, the JV will have a
detailed business plan and clear objectives which the members must act in accordance with. The objectives are set as early as procurement and the conclusion of procurement typically provides a draft business plan that the parties agree in concluding negotiations.

JVs are complex by nature and require a relatively longer and more expensive procurement process to establish. This and the fetters on control also mean that the market is relatively thinner for willing partners than for the other delivery options. JVs also require resource from the Council once in operation. Representatives will be required to act as board members within the JV, which necessitates not only a time commitment but also that those representatives have sufficient expertise to make development decisions. The relevant delegated authorities will also need to be in place. Board members will have to make decisions in the commercial interests of the JV, and it is important to avoid any conflicts with wider Council functions so far as possible.

**Full Council delivery**

Of course there is also the option for the Council to deliver the scheme directly itself. This may be providing infrastructure and selling serviced parcels, or delivering actual development.

In this case full cost and risk is borne by the Council, not shared with a partner, and as a result all the returns will also be received by the Council. The financial commitment will however be very significant, likely requiring a large amount of borrowing at significant risk. This would most likely necessitate the delivery actually being carried out by some form of wholly owned subsidiary.

This approach would afford the Council maximum control over development, with direct and unfettered decision making over all matters including design, programme, tenure, use mix etc. The cost of this is however human resource commitment and the requirement for expertise in development matters, which could be brought in either through direct hires or as a development management service.
Appendix V
Qualitative Scoring Summary
<table>
<thead>
<tr>
<th>Category</th>
<th>Commentary per Option</th>
</tr>
</thead>
<tbody>
<tr>
<td>Control</td>
<td><strong>Option 1</strong> – (3) - Control over delivery of infrastructure only, not actual delivery of the scheme. Option 2 – (4) - Partial control over infrastructure and portion of the scheme the Council has ownership of, though not the remainder. May include nominations units. Option 3 – (8) - Full control over infrastructure, control over parameters for development though only negative and reactive influence thereafter. Option 4 – (9) - Control over whole scheme, full decision making though jointly with a partner. Option 5 – (10) - Control over whole scheme completely unfettered.</td>
</tr>
<tr>
<td>Risk</td>
<td><strong>Option 1</strong>– (6) - No exposure to development risk. Cost risk in infrastructure delivery and risk that funds are not recovered if landowners do not develop/sell land. <strong>Option 2</strong>– (5) - Cost risk in infrastructure delivery and potential for exposure to development/market risk in delivering/selling Council’s ownership. <strong>Option 3</strong>– (4) - Procurement/market risk in securing partner, cost risk in delivering infrastructure, potential for some exposure to development risk if deferring receipts but can be mitigated with up-front land payments. <strong>Option 4</strong>– (3) - Full exposure to development risk through participation in development though shared with the partner. <strong>Option 5</strong>– (1) - Full exposure to development risk.</td>
</tr>
<tr>
<td>Return</td>
<td><strong>Option 1</strong> – (2) - Recovery of infrastructure costs, potential for cost plus interest. <strong>Option 2</strong> – (4) - Serviced land receipts or development proceeds from the Council’s share of land. <strong>Option 3</strong> – (8) - Land receipts for the whole scheme, some potential for overage. <strong>Option 4</strong> – (8) - Development profit from the whole scheme shared with the partner. <strong>Option 5</strong> – (10) - Development profit from the whole scheme.</td>
</tr>
<tr>
<td>Resource</td>
<td><strong>Option 1</strong> – (7) - Negotiation of agreements and contracting for infrastructure works only. Funding all infrastructure costs. <strong>Option 2</strong> – (5) - Negotiation of agreements, contracting infrastructure works and disposing of serviced land or securing partner for delivery of Council’s land only. Funding delivery of Council’s land only. <strong>Option 3</strong> – (3) - Funding required for delivery of infrastructure. Procurement of a delivery partner, management of on-going contractual relationship. Potentially little funding requirement for delivery of actual development. <strong>Option 4</strong> – (3) - Procurement of a delivery partner and funding of half the equity requirements of the JV, including infrastructure and development. <strong>Option 5</strong> – (1) - Funding equity required for the delivery of the entire scheme.</td>
</tr>
<tr>
<td>Practical considerations</td>
<td><strong>Option 1</strong> – (2) - Need to secure agreement with landowners to contribute to infrastructure costs, and to charge their land – difficult and potentially unlikely. Also general brokering of agreement between landowners. Potential need for CPO where landowners unwilling to allow infrastructure delivery on their land. <strong>Option 2</strong> – (3) - Need to secure agreement with landowners to contribute to infrastructure costs. Also general brokering of agreement between landowners. Potential need for CPO for Council to secure its share of ownership. <strong>Option 3</strong> – (5) - Likely need for CPO to secure control of whole scheme including at viable land prices. <strong>Option 4</strong> – (5) - Likely need for CPO to secure control of whole scheme including at viable land prices. <strong>Option 5</strong> – (5) - Likely need for CPO to secure control of whole scheme including at viable land prices.</td>
</tr>
</tbody>
</table>
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