

Report title: ECC response to the Technical Section 1 Local Plan Examination Consultation 2019 - North Essex Authorities (Braintree, Colchester and Tendring)	
Report author: Councillor Tony Ball, Cabinet Member for Economic Development	
Date: 13 September 2019	For: Decision
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1. Purpose of Report

- 1.1 The purpose of this report is to provide details of Essex County Council's (ECC) response to the Technical Section 1 Local Plan Examination Consultation 2019 for the North Essex Authorities (NEAs) (Braintree, Colchester and Tendring).

2. Recommendation

- 2.1 To agree and send ECC's response to the consultation, as contained in Appendix 1 to this report to the NEAs and endorse the comments in ECC's response as the basis for ECC's written representations to be submitted to the Planning Inspector appointed to conduct the independent Local Plan Examination.
- 2.2. To agree to confirm that ECC will continue to work with NEAs towards the refinement of their Section 1 Local Plans and the supporting evidence base with the aim of supporting the NEAs at the Local Plan examination hearings and the post examination process.

3. Summary of Issue

- 3.1 In October 2017, the NEAs submitted their Local Plans for examination to the Secretary of State. Section 1 of the submitted Local Plan (the Section 1 Plan) sets out an overarching strategy for future growth across the NEAs, including proposals for three new cross-boundary Garden Communities (GCs) along the A120 corridor. The 'Section 2' of each Local Plan contains the specific local policies and proposals relevant only to their individual administrative area.
- 3.2 Examination hearings for the Section 1 Plan took place in January and then in May 2018; and in June 2018 the Inspector wrote to the NEAs setting out his initial findings. Whilst he confirmed the legal compliance and soundness of some elements of the Plan, the Inspector found some of the evidence and justification in support of GCs to be lacking and was therefore unable to find the Section 1 Plan sound. The Inspector's concerns are identified below:
- Sustainability Appraisal (SA) – objectivity of the appraisal and concerns that it was biased in favour of the NEAs preferred strategy.
 - Strategic road improvements – lack of certainty over the delivery, timing and funding of the A12 and A120.
 - Rapid Transit System (RTS) – feasibility of delivery (including route options) as well as the system's commercial viability.
 - Build out rates – level of evidence to support housing delivery higher than 250 dwellings per year at the GCs.

- Employment provision – absence of any indication as to how much employment land would be provided as part of the new GCs.
 - Viability – assumptions used for transport infrastructure costs, land purchase and interest costs, and contingency allowances.
 - Delivery mechanisms – NEAs approach to delivering GCs through the formation of a locally-led New Town Development Corporation and whether the development could be delivered through other alternative methods.
- 3.3 In October 2018, the NEAs confirmed that they remained committed to using GC principles to secure the future housing requirements in North Essex and committed to preparing additional evidence to address each of the Inspector's concerns. At this point the Inspector formally paused the Section 1 Plan examination until the NEAs completed further work on the evidence base and the additional SA.
- 3.4 Consequently, the NEAs are now undertaking a technical consultation as part of the Local Plan examination on:
- the Additional SA;
 - the additional evidence base documents (see Appendix 2 for a summary of each document); and
 - suggested amendments to the Section 1 Plan known as proposed 'Modifications' (as put forward by suggestions and discussions at the examination hearings in 2018, the Inspector's interim findings, the findings of the additional evidence base, and representations made at the last consultation stage in 2017).
- 3.5 The consultation is running between 19 August and 30 September 2019 and it is recommended that ECC provide a response to the NEAs outlining its commitment to the Section 1 Plan and provide an update on infrastructure projects where ECC is leading, such as the Housing and Infrastructure Fund (HIF) bids and the A120, together with an update on the Highways England (HE) A12 widening scheme.

Policy objectives

- 3.6 ECC aims to ensure that local strategies and policies provide the greatest benefit to deliver a buoyant economy for the existing and future population that live, work, visit and invest in Essex. As a result, ECC is keen to understand and support the formulation of the development strategy and policies delivered by Local Planning Authorities. Involvement is necessary because of the ECC role as:
- a. key partner within North Essex promoting economic development, regeneration, infrastructure delivery and new development throughout the County;
 - b. major provider and commissioner of a wide range of local government services throughout the county of Essex;
 - c. the strategic highway and transport authority, including responsibility for the delivery of the Essex Local Transport Plan and as the local highway authority; Local Education Authority (including early years and childcare); Minerals and Waste Planning Authority; Lead Local Flood Authority; and lead advisors on Public Health; and
 - d. an infrastructure funding partner, that seeks to ensure that the development allocations proposed are realistic and do not place an unnecessary cost burden on ECC's Capital Programme.

3.7 The ECC response seeks to ensure the following ECC policy objectives are reflected in the NEAs Section 1 Plan:

- [Essex Vision for Priorities 2017/21](#)
- [Essex Organisation Strategy, 2017 – 2021](#)
- [Economic Plan for Essex \(2014\)](#)
- [Essex Economic Commission, January 2017](#)
- [Essex Transport Strategy, the Local Transport Plan for Essex \(June 2011\)](#)
- [Essex Minerals Local Plan 2014](#)
- [Essex and Southend-on-Sea Waste Local Plan 2017](#)
- [10 Year Plan Meeting the demand for school places in Essex 2019-2028](#)
- [Essex Early Years and Childcare Strategy 2015-2018](#)
- [ECC Developers' Guide to Infrastructure Contributions \(2016\)](#)
- [ECC SuDS Design Guide](#)

4. Options

4.1 The options are either for ECC to make additional comments at this stage or to make no further comments. It is considered that it would be of assistance to the NEAs and the Planning Inspector to have ECC's comments on to inform his Matters, Issues and Questions (MIQs) for the forthcoming examination hearings.

4.2 The full proposed ECC response is set out in Appendix 1 to this report. It is recommended that these comments form the basis for ECC's written representations to be submitted to the NEA's and subsequently the Planning Inspector appointed to conduct the independent Local Plan examination.

4.3 In summary the ECC response:

- a. outlines its commitment to the Section 1 Plan;
- b. provides an update on the relevant HIF bids as they relate to North Essex (one of which has received funding and the other still to be determined) in order to show the Inspector that certain infrastructure for the Tendring Colchester GC is now funded by Government and there is a programme for its deliverability;
- c. provides an update on the dualled A120 (Braintree to A12) and A12 widening (the latter funded through the Government Road Investment Scheme 1 (RIS1)); and
- d. provides an update to related A120 corridor transport schemes such as the Millennium Way Slips (Braintree) and the M11 Junction 8 Improvements (at junction with A120).

Next steps

4.4 All representations to the consultation, including those of ECC, will be submitted to the Planning Inspector. The Inspector will consider all responses and liaise with the NEAs to confirm the timetable for resuming the examination hearings. The Inspector will issue further MIQs to establish the main topics to be re-examined and will invite written responses from participants ahead of any hearings. It is anticipated that hearings will take place in December 2019.

4.5 Following the completion of the further examination hearings, the Inspector will write to the NEAs to confirm whether or not his concerns about the GCs have been

addressed, and whether or the not the Section 1 Plan now meet the tests of soundness. The Inspector could recommend additional post-examination main modifications which would need to be the subject of further consultation in their own right before the Section 1 Plan can be adopted by the NEAs.

- 4.6 The examination of the NEAs individual Section 2 Local Plans will not take place until Section 1 has been examined and found to be sound.

5. ECC response and update

- 5.1 ECC has worked collaboratively with the NEAs in the preparation of their Local Plan, including joint preparation of evidence, the drafting of examination hearing statements, Statements of Common Ground, attendance at examination hearing sessions as part of the NEAs team; and the drafting of Modifications (policy and supporting text) with regards ECC statutory roles and responsibilities.
- 5.2 Following the examination hearings in 2018, ECC officers have assisted the NEAs and inputted to the preparation of the following additional technical evidence documents that are now subject to consultation and, through ECC's transport consultant Jacobs, have led on the RTS work:
- North Essex Rapid Transit System: from Vision to Delivery
 - Modal Share Strategy for the North Essex Garden Communities
 - North Essex Authorities Section 1 Viability Assessment Update and Appendices
 - North Essex Authorities Infrastructure Order of Costs Estimate
 - North Essex Garden Communities: Infrastructure Planning, Phasing and Delivery
 - Suggested Amendments to the Publication Draft Braintree, Colchester and Tendring Local Plans: Section One - July 2019 (Modifications)
- 5.3 The findings of the above and the other additional evidence reports out for consultation are detailed in Appendix 2.
- 5.4 With regards the preparation of the Additional SA to support the Section 1 Plan, the document addresses the Inspector's concerns from 2018, in that the choice of three GCs as part of the preferred spatial strategy had not been properly justified or that the chosen strategy was the most appropriate when considered against the reasonable alternatives. Accordingly, the NEAs prepared an Additional SA (a summary is provided in Appendix 2) that has been informed by all the new evidence reports.
- 5.5 The findings of the Additional SA do not suggest that there is a clearly stronger alternative to the current strategy for three GCs set out in the submitted Section 1 Plan. On this basis, there are no reasons arising from the Additional SA findings for the NEAs to change their recommendation in respect of the most appropriate strategy for growth in North Essex. The NEAs have concluded that the Additional SA demonstrates to the Inspector that reasonable alternatives have been considered in an objective way and that the choice of spatial strategy for the Section 1 Plan is both justified and sound. It should be noted that the methodology followed was agreed with the Inspector before any work commenced.

- 5.6 The Section 1 Plan (through Policy SP5) identifies ‘strategic priorities for infrastructure provision and improvements’ to support the major growth proposed for North Essex, including RTS, road infrastructure, public transport infrastructure and strategic highway connections to reduce congestion and provide more reliable journey times along the A12, A120 and A133. The Inspector questioned funding and deliverability of these schemes and assurances that provision would be timely and in keeping with an ‘infrastructure first’ approach for the GCs. An update on schemes where ECC is involved is provided below and shows progress has been made, and in some instances, funding secured and a programme for deliverability is being developed for agreement with Government. The NEAs are also proposing to amend Policy SP5 and the explanatory text to clarify points raised by the Inspector and others throughout the examination to date, and ECC officers have been involved in the drafting process of these amendments and supports the revised wording.
- 5.7 The NEAs have also worked with ECC to confirm a range of infrastructure costs and phasing requirements, particularly those related to transportation and education, and the NEAs have included this information in relevant technical evidence documents.
- 5.8 ECC submitted two bids under the ‘Forward Funding’ element of the Government’s HIF programme, which seeks to provide upfront early funding of strategic infrastructure to enable housing to come forward: The two bids are outlined below with an update on progress.
- a. Tendring Colchester Borders GC (£99.9m)
- 5.9 The bid sought funding for a new A120-A133 link road and provision for RTS as outlined in the Local Plan to unlock land to provide up to 7,500 new homes. Funding was sought to implement the RTS which will prioritise public transport on key routes into Colchester for new and existing residents. The system will service a new Park and Ride and connect the planned GC with the urban area of Colchester (and beyond in due course). A new strategic link road between the A120 and A133 will improve connectivity locally and within the wider region and help relieve traffic congestion.
- 5.10 In August 2019, the Government announced that ECC had been successful in securing the £99.9 million to deliver the above. Mindful that the HIF programme requires funding to be committed and works implemented by April 2024, ECC continued to evolve more detailed proposals and work on delivery of the infrastructure components in advance of the funding decision. At this stage the timetable for delivery is as follows:

Public consultation on options for proposed link road and RTS routes	October/ November 2019
Preferred route announcement	Early 2020
Planning application	Autumn 2020
Construction start	2022
Project completion	2024

b. Colchester Braintree Borders GC (£229m)

- 5.11 The bid proposals include further widening and realignment of the A12 between Kelvedon and Marks Tey to compliment the already funded A12 widening project (through RIS1 and detailed below). The HIF scheme proposes to move the position of the A12 to the east of its existing alignment to facilitate and realise the growth potential of this part of North Essex. This would involve a completely new junction 25 which will provide direct access to the proposed GC, signalling junction 23 at Kelvedon where the A12 meets a new A120 (the ECC favoured route) to facilitate traffic flow and widening of the Kelvedon Bypass to four lanes in each direction to accommodate future traffic volumes. The route alignment of the A12 will be the subject of future public consultation.
- 5.12 The infrastructure provided by the proposed scheme would facilitate the delivery of 21,000 new homes at the GC of which 15,000 can come forward as a result of this HIF investment. Without funding, development would be capped at around 6,000 homes, it would be unlikely to achieve full GC principles, and would still suffer from access issues.
- 5.13 At present the Government is still assessing the bid and has yet to make an announcement, but discussions are on-going between ECC and Government to secure delivery.

A12 widening and junction improvements (as funded through RIS1)

- 5.14 As per the position at the examination hearings in 2018, this scheme is included in RIS1 with funding already secured. The proposed scheme is likely to affect the alignment of the A12 between junctions 24 and 25, and consequently any scheme will need to align with what has been proposed in the above HIF bid, as the two are related (but the A12 widening scheme funded through RIS1 is not dependent on the HIF funding for delivery). HE will consult with those affected on any potential route for the A12.
- 5.15 At this stage, it is anticipated that HE will make a preferred route announcement on the A12 widening project in Summer 2020. The A12 works will require consent through Development Consent Order and the current programme expects this to be submitted in 2022, with start of physical construction in Spring 2023 with works anticipated to be complete by 2027/28. HE, Department for Transport (DfT), ECC, Braintree District Council and Colchester Borough Council are continuing to progress the deliverability of the scheme.
- 5.16 HE has set up a Member (3rd October) and two Community (10th and 14th October) 2019 Forums to provide an update on the A12 Chelmsford to A120 scheme.

A120 Dualling (Braintree to A12)

- 5.17 At the time of the examination hearing sessions in January and May 2018 and the Inspector's June 2018 letter, there had been no decision by ECC in respect of a proposed alignment for the dualled A120. ECC announced its favoured route in June 2018 (following a consultation that ended in March 2018) and this was recommended to HE / DfT for inclusion in Government Road Investment Scheme

RIS2. The favoured route runs from Galley's Corner at Braintree to a new junction with the A12 to the south of Kelvedon (and aligns with proposals for the A12 put forward in the HIF bid).

- 5.18 If the A120 Braintree to A12 upgrade is included in RIS2, it is expected to be announced before the end of 2019. If successful, this would likely be followed by a Preferred Route Announcement by HE. Provided that the scheme progresses as planned, and funding is made available, it is anticipated that construction could commence in 2023 with the road open for use by 2027. ECC will continue to lobby the Government if the A120 is not included in RIS2 to include it for improvement at the earliest possible opportunity.
- 5.19 Communications and lobbying activity by ECC continue to support the progression of the scheme. HE has provided a revised cost estimate for the scheme and cost reductions will assist the case for RIS2 funding.
- 5.20 Technical work on ECC's approach to determining its favoured A120 route option was signed off by HE through a Stage Gate Assessment Review of the options evaluated. This review is part of HE's Product Control Framework approach to major projects which ECC has been following in order to ensure that the project could be delivered by HE once funding has been secured.
- 5.21 If the A120 Braintree to A12 upgrade is included in RIS2, it is expected to be announced in 2019. If successful, this would likely be followed by a Preferred Route Announcement by Highways England. Provided that the scheme progresses as planned, and funding is made available, it is anticipated that the Development Consent Order would be submitted 2021/22, that construction could commence in 2023 and the road be open for use by 2026.

A120 Millennium Way Slips (Braintree)

- 5.22 For other works along the A120, funding has been secured for the A120 Millennium Way slips providing £4.95m from the DfT National Productivity Investment Fund for the Local Road Network, with additional funding secured from ECC (£3.5m), Braintree District Council (£2.5m), and Highways England (£3m), which has enabled the scheme to progress.
- 5.23 The scheme involves the construction of two new slip roads and associated works to provide access between the A120 and the B1018 Millennium Way (providing west facing slips to allow better access and help relieve congestion at this location). The scheme will ease congestion in the short term, thereby helping to improve air quality, support economic growth locally and along the A120 corridor, and assist in the delivery of new housing development in the Braintree area and the wider A120 corridor. A planning application (CC/BTE/34/19) was submitted to ECC on 24 May 2019 and is currently being assessed. The Advance Works for the proposed scheme are expected to begin in Autumn 2019 with the Main Works (construction) expected to start in Spring 2020 and a total construction period of around 15-18 months.

M11 Junction 8 Improvements (at junction with A120)

- 5.24 Following a successful bid in 2017 for the DfT National Productivity Investment Fund, work has progressed to improve Junction 8 of the M11 and A120 West. The scheme has the benefit of planning permission, and will seek to support future plans for housing and employment by improving access between the M11 and A120 with London Stansted Airport; and reduce congestion and improve capacity on the M11 Junction 8 exit slips and the A120. Statutory diversions have begun in preparation for full construction phase commencing in early 2020. Construction is expected to take up to two years, however the start date and duration of works may be subject to change.
- 5.25 The following documents have been used to inform the ECC response (the additional evidence base documents can be viewed through the weblink by clicking [here](#) and a summary is provided in Appendix 3).
- Additional Sustainability Appraisal of North Essex Local Plan Section 1
 - North Essex Rapid Transit System: from Vision to Delivery
 - Modal Share Strategy for the North Essex Garden Communities, including Marks Tey station update
 - North Essex Authorities: Build Out Rates at the Garden Communities
 - North Essex Authorities Section 1 Viability Assessment Update
 - North Essex Authorities Infrastructure Order of Costs Estimate (Gleeds report)
 - Employment Provision for the North Essex Garden Communities
 - North Essex Garden Communities: Infrastructure Planning, Phasing and Delivery
 - Habitats Regulations Assessment North Essex Authorities Strategic Section 1 Local Plan
 - North Essex Authorities: Delivery Mechanisms Position Statement
 - North Essex Authorities: State Aid Position Statement
 - Suggested Amendments to the Publication Draft Braintree, Colchester and Tendring Local Plans: Section One (July 2019)
 - [National Planning Policy Framework \(2012\)](#)
 - [Planning Policy Guidance](#)
 - [Essex Organisation Strategy, 2017 – 2021](#)

6. Issues for consideration

6.1 Financial implications:

- 6.1.1 There are no direct financial implications in respect of ECC's response to this consultation. The involvement of ECC in the Local Plan examination will involve staff resource implications, however, it is anticipated that this will be managed within existing budgets. There will be implications for ECC's financial position to assist implementation of the Local Plan once adopted.
- 6.1.2 In terms of the GCs, options for various potential delivery mechanisms are being considered locally. Such arrangements would need to involve ECC. The NEAs together with ECC will continue to explore ways of achieving the vision that offer similar levels of confidence that the right quality of development will be delivered

at the right time. The NEAs have engaged ECC in discussing and reviewing suitable delivery mechanisms as well as negotiations with landowners and developers to ensure the full range of infrastructure is costed, funded and provided in accordance with 'garden city principles'.

6.2 Legal implications:

- 6.2.1 The duty to co-operate is contained in the Planning and Compulsory Purchase Act 2004, as amended by the Localism Act 2011. It requires Local Planning Authorities to engage constructively, actively and on an on-going basis to ensure that the preparation of the Local Plan has regard to key strategic matters addressing social, environmental and economic issues which can only be addressed by effectively working with other authorities beyond their own administrative boundaries. This is echoed in paragraphs 178 to 181 of the NPPF2012 (which is being used to examine the Draft Plan as it was submitted prior to 24 January 2019).
- 6.2.2 Guidance issued on 6 March 2014 stresses that close cooperation between District Councils and County Councils in two-tier areas will be critical to ensure that both tiers are effective when planning for strategic matters.
- 6.2.3 A Local Plan may be found unsound at Examination if the DTC has not been properly undertaken and the implications of this require careful consideration.

7. Equality and Diversity implications

- 7.1 The Public Sector Equality Duty applies to ECC when it makes decisions. The duty requires ECC to have regard to the need to:
 - a. Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
 - b. Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - c. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3 An Equality Impact Assessment was undertaken by the NEAs to inform their new Local Plans at the Regulation 19 stage of plan preparation and is relied on by ECC. It concluded that the Local Plan has no negative impacts and there is a low risk of negative impact on the affected groups. Impacts will continue to be monitored and if particular issues are identified, appropriate action will be taken. It is considered that all opportunities will be taken to advance equality through the Local Plan.

8. List of appendices

- 8.1 Appendix 1 – full proposed ECC response to the further technical evidence base documents and Additional Sustainability Appraisal prepared by the NEAs regarding their Section 1 Local Plans (September 2019).

9. List of Background papers

None

I approve the above recommendations set out above for the reasons set out in the report. Councillor Tony Ball Cabinet Member for Economic Development	27 September 2019
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In consultation with:

Role	Date
Executive Director for Corporate and Customer Services (S151 Officer) Nicole Wood, Director for Financial Services on behalf of Margaret Lee	19 September 2019
Monitoring Officer Jacqueline Millward on behalf of Paul Turner, Director Legal and Assurance	27 September 2019
Executive Director, Economy, Localities and Public Health Graham Thomas, Head of Planning and Development on behalf of Dominic Collins, Director of Economic Growth and Localities	13 September 2019