

Forward Plan reference number: FP/354/03/22

Report title: Publication of Compulsory Purchase Orders for Land required for the A120-A133 Link Road Scheme	
Report to: Cabinet	
Report author: Councillor Lesley Wagland, Cabinet Member for Economic Renewal, Infrastructure and Planning	
Date: 21 June 2022	For: Decision
Enquiries to: Paul Crick Director, Performance, Investment and Delivery paul.crick@essex.gov.uk or Laura Ford, Project Sponsor laura.ford@essex.gov.uk	
County Divisions affected: Tendring Rural West	

1. Everyone's Essex

- 1.1 Everyone's Essex, has the aim of creating a strong, inclusive and sustainable economy, a high quality environment and a good place for children and families to grow.
- 1.2 This includes a commitment to deliver and maintain high quality infrastructure to support a growing economy and the delivery of new housing and communities.
- 1.3 The proposed A120-A133 Link Road will play a key role in unlocking land to provide up to 9,000 new homes, as well as business and leisure space, as part of the new Tendring/Colchester Borders Garden Community. The proposed Link Road will provide improved access to both the A120 and A12, reducing congestion on the network and throughout Colchester town centre, as well as providing a connection to the new Rapid Transit System which will offer residents a high frequency public transport service on segregated or priority corridors.
- 1.4 The road will support the commitments to climate action in Everyone's Essex by reducing traffic congestion on local roads and throughout Colchester Town Centre, thereby reducing carbon emissions in sensitive locations. It will also facilitate the delivery of a Rapid Transit System which will encourage residents in the new settlement and across Colchester to use public transport, reducing the number of vehicles on the network and further avoiding carbon emissions.

2 Recommendations

- 2.1 Authorise the Director, Highways and Transportation to enter into agreements with National Highways Company Limited under which the Council can deliver the A120-A133 Link Road Scheme.
- 2.2 Agree that if the Director, Highways and Transportation is satisfied that the Council is unable to acquire the land required for the scheme by agreement on

reasonable terms, he may, after consulting the Cabinet Member for Economic Renewal, Infrastructure and Planning, and the Director, Legal and Assurance, authorise the making of Compulsory Purchase Orders to acquire the land shown on the plan at Appendix A and to pursue the Orders to confirmation as well as any additional legal processes required as a result of publication of Side Road Orders and any arrangements with National Highways Company Limited.

- 2.3 Authorise the Director, Highways and Transportation to agree minor changes to the boundaries of the land to be acquired after consulting the Cabinet Member for Economic Renewal, Infrastructure and Planning, and the Director, Legal and Assurance.

3 Background and Proposal

- 3.1 Essex County Council (ECC), working in collaboration with Colchester Borough Council (CBC) and Tendring District Council (TDC), was awarded £99.9m following a bid submitted to the Housing Infrastructure Fund (HIF). The bid supports key projects in the Local Borough and Districts' emerging draft Local Plans and the North Essex Garden Communities programme to deliver the Tendring/Colchester Border Garden Community (TBCGC). The bid covered the construction of the Link Road and Rapid Transit System (RTS) (and terminals) as well as one out of two possible "Park and Choose" sites, north and south of the TBCGC.
- 3.2 The two key components of the successful ECC bid are:
- A new link road running east of Colchester between the A120 and the A133 to provide greater connectivity into the proposed new development; and
 - Rapid Transit development funding a route from the proposed Tendring and Colchester Borders Garden Community via University of Essex into Colchester.
- 3.3 The Link Road and RTS address a package of transport and access matters, enabling early implementation of sustainable transport options to stimulate behaviour change and address highways capacity constraints in East Colchester and West Tendring. It will provide capacity and access to enable residential developments to come forward sooner than programmed. This scheme will improve access to the University of Essex and would provide a connection into a proposed new employment park.
- 3.4 Following assessment of route options for the Link Road, a consultation was held in November 2019 over a 6-week period. In May 2020, the Cabinet approved a preferred route from a highway perspective (report ref **FP/648/03/20**).
- 3.5 Planning Permission for the Link Road was granted by the County Council's Development and Regulation Committee in November 2021 (application ref: CC/TEN/31/21).

- 3.6 The Tender for the main construction works was published in March 2022, following Cabinet Approval (FP/185/10/21).
- 3.7 With regard to infrastructure and connectivity, policy SP6 of the TDC/CBC development frameworks states that before any planning approval is granted for development within the Tending Colchester Borders Garden Community, the following strategic transport infrastructure must have secured planning consent and funding approval:
- a) A120–A133 link road; and
 - b) Route 1 of the rapid transit system as defined in the North Essex Rapid Transit System: From Vision to Plan document (July 2019).

4 Land Negotiation

- 4.1 In order to construct the scheme, ECC needs to acquire a significant amount of land. Negotiations for the land are progressing but they may not succeed as owners may not wish to sell or may only want to sell on terms which the Council considers unreasonable. In order to ensure the delivery of the scheme, if agreement cannot be reached with all landowners, then ECC will need to make one or more compulsory purchase orders.
- 4.2 The proposed link road would be a new dual carriageway between the A120 trunk road and A133 to the east of Colchester. As part of the scheme there is to be a new grade-separated ‘dumbbell’ type junction on the A120, with new accesses to existing facilities alongside the current road. The A120 forms part of the Strategic Road Network and some works to deliver this scheme will be carried out on land owned and operated by National Highways. Responsibility for some of the resulting infrastructure will transfer to National Highways post scheme completion. ECC will be the highway authority for the remaining road network delivered by the scheme. Authority is sought to enter into a Section 6 Agreement with National Highways to enable ECC to acquire relevant land, this will be agreed in principle prior to a contractor being appointed to complete the detailed design and construct the scheme.
- 4.3 The design of the scheme has, where reasonable, taken account of accommodation works requested by landowners and accepted input into the design which was granted planning permission. The scheme has sought to minimise the land required as far as possible. However, there are still 10 landowners/holdings directly affected by the scheme.
- 4.4 ECC have commissioned its retained land agent to engage with affected landowners. This engagement has been ongoing with most landowners for over 3 years and in general we now believe we are negotiating a final settlement agreement to avoid requiring compulsory purchase orders. However, in the interest of ensuring the construction programme can remain on schedule and that a fair and reasonable cost for land acquisition can be achieved, ECC are continuing with the preparation of CPO documentation in parallel to negotiations.

5 Links to our Strategic Ambitions

5.1 This report links to the following aims in the Essex Vision

- Develop our County sustainably
- Share prosperity with everyone

6 Options

Option 1 (recommended):

6.1 Agree to the authorisations sought to enter into the required agreements with National Highways and utilise CPO powers if required. This will allow the scheme to progress and ensure reasonable terms and costs are applied to secure land.

Option 2 (not recommended)

6.2 Rely on acquiring the land by agreement only. This would increase risk of delivery of the scheme as landowners are under no obligation to reach agreement on any terms. The scheme would be undeliverable if the land is not secured.

7 Issues for consideration

7.1 Financial implications

7.1.1 A revised total cost of £90.20m for the A133/A120 Link Road was presented to cabinet in January 2022. This is an increase of £21.13m from the original capital programme value of £69.07m and has been included in the 2022/23 capital programme with the expectation that the full increase will be funded from additional external sources that are yet to be secured. The increase of £21.13m is currently unfunded, pending written agreement with Homes England as to a viable solution.

The table below sets out the latest position.

	2019/20 £000	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000	2025/26 £000	Total £000
Previous Capital Programme	2,016	2,747	7,029	32,838	24,439	-	-	69,069
Current Capital Programme	2,016	2,747	2,027	3,973	35,029	34,650	9,758	90,200
Difference	-	-	5,002	28,865	-	10,590	-	21,131

7.1.1 ECC has advised Homes England of the estimated cost escalation of £21.13m and programme elongation to the end of October 2025 (£16.733m forecast spend beyond existing funding deadline), formally requesting that additional funds are released, and that funding can be applied beyond the original time

horizon for spend. Programme elongation is a separate risk to the £21.13m cost escalation, as ECC is currently unable to draw down funding beyond 31 March 2024 under the terms of the Grant Determination Agreement. The scale of this additional funding request and the extension of timeframe will require formal HM Treasury (HMT) approval.

7.1.2 ECC are currently complying with a Project Assurance Review commissioned by HE, which will inform the response to the renegotiation request, the outcome of this is expected in July 2022.

7.1.3 There is a risk that HE / HMT will not be willing to fund the cost escalation in full or are not agreeable to the full programme extension. If the additional funding request is not successful options will be considered to set out how the scheme can progress with reduced scope. This could be avoided if additional un-ringfenced/non-specified external funding is received (S106, for example) by the organisation and its application prioritised for this purpose. There would remain a requirement to assemble land.

7.1.4 ECC will be liable for payments in relation to the land to be acquired on a temporary or permanent basis and other statutory compensation payments. These costs have been included within the reprofiled cost proposal submitted to Homes England. It is anticipated that a formal response will be received from HE and the funding position known prior to CPO powers being utilised.

7.1.5 The additional funding request of £21.13m and funding extension to October 2025 assumes that a Public Inquiry (PI) is not required for this project. ECC is currently negotiating with several landowners and if a PI materialised the programme would be extended by an estimated period of 12 months with costs increasing significantly owing to materials increases and inflation. The slippage in the programme would reprofile expenditure further beyond the current HE funding deadline, resulting in an increased risk of additional grant shortfalls unless an extension were granted. ECC would again need to seek a programme extension or consider alternative approaches to funding unless there was a significant reduction in scope.

7.1.6 Potential inflationary risks beyond the £21.13m have been identified and should these materialise the funding gap may widen, subject to concluding and agreeing in writing the risk mitigation strategy to cover this with third parties (Homes England). Specifically, land acquisition is ongoing and therefore further costs may be incurred in finalising negotiations.

7.1.7 Should land be acquired late there is a risk that this will delay the overall construction programme and may result in additional mitigation works, this could lead to increased costs that are not currently quantifiable. Any delay may also place further pressure on the HE funding deadline.

7.2 Legal implications

7.2.1 Compulsory purchase involves the state removing private rights. Under article 1 to the first protocol of the European Convention on Human Rights any such

interference with private rights must be proportionate and in the public interest. Compulsory purchase is likely to be justified where land is firmly required for a scheme to which the Council is committed and checks will be made before an order is made.

- 7.2.2 The Council is committed to deliver this scheme under an agreement with Homes England under which it is providing a fixed amount of funding. The funding is also linked to the delivery of the Colchester rapid transit scheme. Under this agreement the Council is committed to achieve a number of milestones. If the Council fails to achieve the milestones then Homes England may decline further funding. Since funding is paid in arrears, this represents a significant risk and it is important to ensure that we only incur expenditure if we are satisfied that it will be reimbursed under the terms of the funding agreement or we have identified another source of funding.

8 Equality and Diversity Considerations

- 8.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us 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.
- 8.2 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).
- 8.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic. The decision required will commit ECC to undertaking a tender process, this does not have a disproportionately adverse impact on any people with a particular characteristic. Please see the Equality Impact Assessment for further information,

9 List of Appendices

Equality Impact Assessment EQIA
Land Interest Plan

10 List of Background papers

A120-A133 Link Road Consultation Document 2019
Decision Notice on planning application Ref CC/TEN/31/21