

Forward Plan reference number: FP/280/01/22

Report title: Colchester Rapid Transit System, ‘Section A’ – Decision to Publish Tender for Main Works Contract	
Report to: Cabinet	
Report author: Councillor Lesley Wagland, Cabinet Member for Economic Renewal, Infrastructure and Planning	
Date: 19 April 2022	For: Decision
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County Divisions affected: Mile End and Highwoods, Abbey, Parsons Heath and East Gates, Wivenhoe St Andrew	

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. The provision of a Rapid Transit system in Colchester is critical to reaching our aims by providing alternative, sustainable transport options which mean that the sustainable transport options for residents is vastly improved, including being a better choice for them than cars. Part of this is also to create benefits across Colchester in terms of moving around town, so that the community has opportunities for growth in a sustainable way.
- 1.2 Everyone’s Essex 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 A Rapid Transit System (RTS) is a type of high-capacity public transport, the North Essex RTS scheme will initially be delivered using Bus Rapid Transit (BRT) technology that is capable of evolving and being upgraded to a trackless tram in the future.
- 1.4 Together with the proposed A120-A133 Link Road, the Rapid Transit System (RTS) 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 RTS which will offer residents a high frequency public transport service on segregated or priority corridors.
- 1.5 Delivery of a Rapid Transit System 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. There is a

requirement to alleviate congestion by providing sustainable and high capacity alternatives to car travel, an RTS is integral in supporting that objective.

2 Recommendations

- 2.1 That the Council launches a competitive procurement for the Section A of the RTS (A134 Northern Approach Road) Works contract via the Eastern Highways Alliance Framework.
- 2.2 Agree that tender evaluation criteria to be used are 50/50 Price/Quality split with 15% of Quality represented by Social Value criteria to the extent that they are consistent with the most economically advantageous tender.
- 2.3 Agree that the Cabinet Member for Economic Renewal, Infrastructure and Planning may award the contract if the successful tender is within the budget then available.

3 Background and Proposal

- 3.1 Delivering elements of a Rapid Transit System was one of two key components in a successful Essex County Council (ECC) bid to the Housing Infrastructure Fund (HIF). The bid was submitted working in collaboration with Colchester Borough Council (CBC) and Tendring District Council (TDC) and 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).
- 3.2 Together 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.
- 3.3 A Rapid Transit System will be in place to connect the Garden Community with the University of Essex, Colchester Town Centre, Colchester Railway Stations, Colchester Hospital, Community Stadium, Northern Gateway Sport Park and the existing Park and Ride on the North side of Colchester.
- 3.4 What makes an RTS unlike other public transport is that it will see a high frequency (every ten minutes or less) services on segregated or priority corridors, so it takes priority over other traffic. The most vital pre requisite to delivering a rapid transit corridor across North Essex is securing a dedicated alignment on which it can run and ensuring that new development is focussed along this alignment.
- 3.5 Whilst initially the North Essex RTS will be delivered using buses, it is proposed that the Council aims towards introducing a system akin to a trackless tram. This would combine the advantages of light rail with the practicality and

flexibility of bus rapid transit. This system would be built up incrementally adapting readily to early adoption of autonomous vehicle technology.

- 3.6 In addition to providing a sustainable travel choice, over private means of transport, the proposed scheme will provide journey time reliability through the sections, allowing the RTS to move through junctions with priority over other traffic.
- 3.7 The RTS is envisaged as a high frequency public transport service operating from early in the morning to late at night offering a realistic alternative to the private car reflecting the assumptions and objectives set out in local planning and transport policy.
- 3.8 ECC has commenced development of a detailed business plan on a target operating standard for the RTS and the phases of implementation of the operational service. This business plan will identify the detailed routings, service patterns, vehicle type and quality standards, branding and ticketing approached. It will be brought to the Cabinet for approval.
- 3.9 It will also set out a specific implementation plan including the method and timing of procuring the RTS service and its interaction with 'Park and choose' provision to the east of Colchester – a parking provision where motorists can switch to a more sustainable form of transport. The business plan will identify the initial phase of the RTS service as well as the standards from inception forming the basis for a procurement exercise for an operator who can deliver these objectives. ECC will work closely with partners in the development of the service model focussing on achieving modal shift, environmental and service quality and long term financial sustainability. The initial business plan will be completed in early 2023.
- 3.10 The HIF funding delivers the infrastructure, the scheme referred to as 'Section A' of the RTS covers from the existing A12 Park and Ride Site to the Albert Roundabout. This includes the existing permission for a 'segregated busway' adjacent to the Northern Approach Road. Section A will specifically deliver:
 - A dedicated segregated two-way RTS corridor running parallel to the A134 Northern Approach Road, connecting the Via Urbis Romanae and Bruff Close;
 - Realignment of the proposed RTS corridor, from the previous design, closer to the A124 and further away from residential properties;
 - Retention of the green corridor along the A134. New landscaping of semi-mature trees along the length of the western side. The RTS corridor will also provide dense native shrubs, grass verges, species rich grassland, groundcovers, mixed herbaceous planting and bulbs to create visual amenity and promote biodiversity;
 - Enhancement of Bruff Close through creation of amenity space around the halt area to facilitate mobility hub features as well as a pedestrian/cycle connection into the adjacent housing estate;
 - A dedicated bi-directional 3m wide cycle track and 2m wide dedicated footway along the corridor;

- Cycle/pedestrian crossing points along A134 at Bruff Close, Wallace Road, the existing Colchester General Hospital western access and the Mill Road Junction;
- Signalised crossings at side roads with intelligent priority for RTS;
- Revised junction arrangements at Mill Road, Dickenson Road and Wallace Road, to enhance pedestrian and cycle safety;
- Mobility hub halt features adjacent to the Colchester General Hospital and at Bruff Close to encourage intermodal travel.

- 3.11 Planning Permission for the initial development was granted by Colchester Borough Council under Variation of Condition 2 attached to planning permission ref: F/COL/01/1626 to take account of latest bus-way details for NAR3 in April 2014. The conditions associated with this application, as well as improvements to the original design noted above, were discharged through a successful planning application determined in January 2022.
- 3.12 The scheme is to be constructed largely within the highway boundary and on land that is owned by Colchester Borough Council whose agreement ECC have to deliver the scheme. It is expected that Highway Rights will be established over this land instead of land ownership transfer. The Council's property advisers are engaged on this matter. There are residual parcels of land required for the scheme that are in the process of being transferred between a Developer and Colchester BC and we are working with Colchester to conclude this process in advance of works commencing on site (not anticipated before January 2023). The land will then need to be dedicated, this has not yet been undertaken and so this is a risk to the scheme but we are working with CBC to complete this prior to a contractor being appointed.
- 3.13 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).
- 3.14 Advertising the tender for the detailed design and construction of Section A of the Rapid Transit System will allow the scheme to maintain programme momentum and meet the above aims.
- 3.15 The overall HIF Contract is currently being discussed with Homes England due to a shortfall of funding on the Link Road. There is no proposal for any funding to be removed from the RTS budget to supplement the Link Road and so for the purposes of delivery the RTS budget is considered ringfenced.
- 3.16 In order to meet the programme for scheme delivery, the council will have to invite tenders before the conclusion of ongoing negotiations with Homes England/HM Government to secure additional funding for the Link Road and time to deliver the scheme, details of which can be found in this report.

- 3.17 The design works proposed relate to the RTS but it has not yet been determined how the RTS will operate or who will operate it. We do not yet know what vehicles will be used. The Director for Highways and Transportation considers that sufficient is known to provide assurance that the works will meet the needs of the RTS so as to enable it to operate with minimal changes before it becomes operational, but clearly there is a risk that technology will change and that the design of the RTS infrastructure is not optimised for the future of the RTS.

4 Links to our Strategic Ambitions

- 4.1 This report links to the following aims in the Essex Vision

- Develop our County sustainably
- Share prosperity with everyone

5 Options

Option 1 (recommended):

- 5.1 Launch a procurement for the main works contract via Eastern Highways Alliance Framework, prior to the conclusion of negotiations with Homes England/HM Government. This will allow the scheme to maintain progress to meet the revised completion date.

Option 2 (not recommended)

- 5.2 Delay advertisement of tender until outcome of contract negotiation with Homes England is known. This will reduce the need for the scheme to progress at risk, however, this will impact the ultimate delivery programme of the scheme.

6 Issues for consideration

6.1 Financial implications

- 6.1.1 The estimated construction value of the proposed works for section A of the RTS (tender value including risk and inflation) is £14m.

- 6.1.2 The Capital Programme includes £42.9m to fund the entirety of the RTS works. This includes £12m of S106 of which £2m has been received and £10m has yet to be agreed, therefore this is a risk. The table below sets out the sources of funding for the RTS within the Capital Programme.

	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	Total
	£000	£000	£000	£000	£000	£000	£000
RTS Budget	4	3,358	2,750	5,368	16,676	14,750	42,906
Funded by:							
HIF	4	3,358	2,750	5,368	14,676	4,750	30,906
S106					2,000	10,000	12,000
Total	4	3,358	2,750	5,368	16,676	14,750	42,906

6.1.3 The RTS will be built in 4 sections (A-D), the table below sets out the cost estimate and sources of funding for phases A to C. The construction of Section D is subject to the additional £10m S106 being agreed and received.

	Actual 2019/20	Actual 2020/21	2021/22	2022/23	2023/24	2024/25	Total
	£000	£000	£000	£000	£000	£000	£000
Colchester RTS	4	3,358	1,940	3,815	15,390	8,326	32,834
Funded by:							
HIF	4	3,358	1,940	3,815	15,390	6,330	30,838
S106						2,000	2,000
Total	4	3,358	1,940	3,815	15,390	8,330	32,838

6.1.4 The RTS is funded by the Housing Infrastructure Fund and will deliver on an infrastructure first approach to Housing delivery and the new garden community. The RTS is included within the same grant agreement with HE as the A120-A133 Link Road project. The Link Road project has experienced significant cost escalation and there is a risk that the programme will not be completed within the funding envelope and timescales previously agreed. ECC is in discussion with HE, as to how the cost escalation will be funded and whether the programme can be extended for the Link Road. In those discussions ECC has made clear the RTS project will be delivered within budget. There is a risk that funding will not be found to cover the cost escalation and HE may not be agreeable to the full programme extension for the Link Road. Whilst this risk is present, ECC remain committed to delivering both the RTS and Link Road.

6.1.5 If the scheme were to be determined to be financially unviable and a decision was made to terminate the agreement with HE and cease delivery of the scheme, there is a risk of significant abortive costs, resulting in an unfunded revenue pressure. To date, £6.387m has been spent or committed on the A133/A120 Link Road and £4.988m on Colchester RTS, a total of £11.375m. ECC would be required to repay HE the capital grant of £10.231m that has been drawn down to date.

6.1.6 The initial HE funding bid included an allowance for Part 1 claims of £800,000, to drawdown on the HIF grant; expenditure must be capital and incurred by 31 March 2024. ECC classifies part 1 claims as revenue expenditure and if these costs materialise it will certainly be post completion. ECC will need to engage in dialogue with HE to determine if additional revenue funding can be made available to cover these costs post completion, if this is not agreed there will be an unfunded revenue pressure. ECC will need to clarify with HE if the existing

£800,000 of capital funding can be used to service other capital costs in the project.

6.1.7 The bid included the feasibility assessment and identification of a preferred 'Park and Choose' site, however, there has been no decision as to whether ECC would operate this site and there is no revenue funding in the MTRS for this. Detailed design and delivery of this is proposed to be taken on by the Garden Community Developer. To date ECC have commissioned a Park & Choose report and preferred location in the South of the GC.

6.2 Legal implications

6.2.1 It is important to ensure that the council is not committed to pay the construction contract unless and until it is satisfied that:

- the land ownership issues have been resolved so that the council has the right to build the RTS – Colchester BC may have agreed now, but they are entitled to change their mind.
- the County Council has complied with terms of the funding agreement with Homes England and that there is no reason to think that there will be future breaches
- funding has been identified for any increases in cost or for anything that won't be funded by Homes England
- planning permission has been granted for a satisfactory scheme.

6.2.2 In order to secure value for money it is important that the design of the works is as flexible as possible given that the RTS appears likely to be operated by buses initially and with the aim of using a 'trackless tram' in the longer term.

6.2.3 The Council has signed a legal agreement with Homes England with respect to grant funding for the road and the rapid transit scheme. The agreement makes ECC responsible for cost overruns and if ECC does not meet performance milestones in the contract then Homes England is entitled to cease to pay any further funding for either project. Since the council is claiming in arrears this could leave the council in the position of having spent significant sums of money which it is unable to reclaim as well as being contractually committed to deliver the remainder of the scheme without being able to claim any further funding. The legal risks were clearly set out in the report to the Cabinet before agreement was signed and the risks remain the same, except that the cost increase risk has to some extent materialised.

6.2.4 The Council is currently having discussions with Homes England concerning some aspects of the programme of work relating to the link road, which is being funded by this agreement. Homes England are under no obligation to find further funding. If they do not do so then ECC will have to either reduce the scope of the scheme, find additional funding or not award a contract for the road. If ECC does not award a contract it will not have to find the money but it will result in the non-delivery of the road and the rapid transit scheme which will

mean that we do not get the benefits outlined in section 1 of this report and relationships with others will be damaged.

7 Equality and Diversity Considerations

- 7.1 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.
- 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 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,
- 7.4 Equalities and accessibility will be an important consideration when it comes to designing the procurement and operation of the RTS.

8 List of Appendices

Equality Impact Assessment

9 List of Background papers

Decision Notice on planning applications relating to this scheme.