

**Forward Plan reference number: FP/198/08/23**

<b>Report title: Proposed Harlow Gilston Garden Town Joint Committee</b>	
<b>Report to:</b> Cabinet	
<b>Report author:</b> Councillor Lee Scott, Cabinet Member for Planning for a Growing Economy	
<b>Date:</b> 19 December 2023	<b>For:</b> Decision
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<b>County Divisions affected:</b> Harlow North, Harlow South East, Harlow West, North Weald and Nazeing	

## **1. Everyone's Essex**

- 1.1 Harlow is a fast-growing town in Essex, and one of Essex County Council's priority places for Levelling Up. In total, 23,000 new homes are planned to be built by 2040 across the Harlow sub-region.
- 1.2 Everyone's Essex involves focusing on garden communities to build sustainable, healthy neighbourhoods for the future that are climate resilient and contribute to net zero. The opportunity for the Harlow sub-region to attract high levels of new investment and new jobs, to enhance the quality of the built environment, and to deliver a step change in passenger transport and active travel provides benefits to existing as well as future residents. Forming the HGGT Joint Committee is recommended as the best route to realising these benefits.
- 1.3 Harlow and Gilston were designated as a Garden Town by the Ministry for Homes, Communities and Local Government in January 2017. The Harlow Gilston Garden Town Partnership has since 2017 been a voluntary and informal arrangement of five partner authorities including ECC. The partnership has established shared policies, plans and strategies and coordinated initiatives which support sustainable and high-quality growth which delivers on the objectives of Everyone's Essex. The scale of growth in an around Harlow has significant implications across ECC's statutory roles and services to residents.
- 1.4 The Partnership Board, including the ECC member, voted in July 2023 to recommend an Inter-Authority Agreement for member authorities to take a decision to enter, and Terms of Reference for the roles and responsibilities for member authorities under Joint Committee arrangements.
- 1.5 Entering a Joint Committee creates a formal, democratically accountable structure for making important decisions collectively with four other authorities. This has benefits for Essex residents in assuring greater transparency and accountability for important plans and strategies shaping the future of the Harlow sub-region. Capitalising on the growth potential across the HGGT area requires robust collaboration across district and county boundaries, which is

what the HGGT Joint Committee has been designed to provide. Infrastructure funding is essential to support growth sustainably, and mitigate negative impacts. The design of a Rolling Infrastructure Fund (RIF) to jointly manage infrastructure funding from government and from developers across the sub-region is a key purpose in establishing the Joint Committee. The establishment of financial management of the RIF under the Joint Committee would be subject to a further ECC decision.

- 1.6 This report recommends ECC enter a new 'Harlow Gilston Garden Town Joint Committee' (HGGT Joint Committee), an equal partnership of the five authorities, led by nominated members including an ECC member. The HGGT Joint Committee will take decisions and commission initiatives that impact the Harlow sub-region, which includes all of Harlow district and parts to the north of Epping Forest District.

## **2 Recommendations**

- 2.1 Agree to enter into the Inter Authority Agreement for the Harlow and Gilston Garden Town Joint Committee, to be executed as a Deed and that the Cabinet agrees to participate in the Joint Committee as set out in that agreement.
- 2.2 Agree that the form of the Inter Authority Agreement will be that set out in Appendix 2 as amended in accordance with Appendix 1 but that the Monitoring Officer be authorised to
  - (a) Waive any of the amendments in Appendix 1 if he considers that it is in the best interests of the Council to do so
  - (b) Make any further minor amendments to the deed which may be requested by partner authorities after consulting the Cabinet Member for Planning A Growing Economy.
- 2.3 Note that once the IAA is executed the Monitoring Officer will make necessary changes to accommodate HGGT Joint Committee arrangements in the ECC Constitution and this will be reported to Council for information.
- 2.4 The Leader in consultation with the Cabinet Member for Planning A Growing Economy shall appoint or nominate an elected representative to the Committee as the ECC-nominated Member of the HGGT Joint Committee.

## **3 Background and Proposal**

- 3.1 Harlow is a fast-growing town in Essex, and one of Essex County Council's priority places for Levelling Up.
- 3.2 This report recommends ECC enter a new Joint Committee, alongside four other partner local authorities. The new 'Harlow Gilston Garden Town Joint Committee' (HGGT Joint Committee) will be an equal partnership of the five authorities, led by nominated members including an ECC member. The HGGT

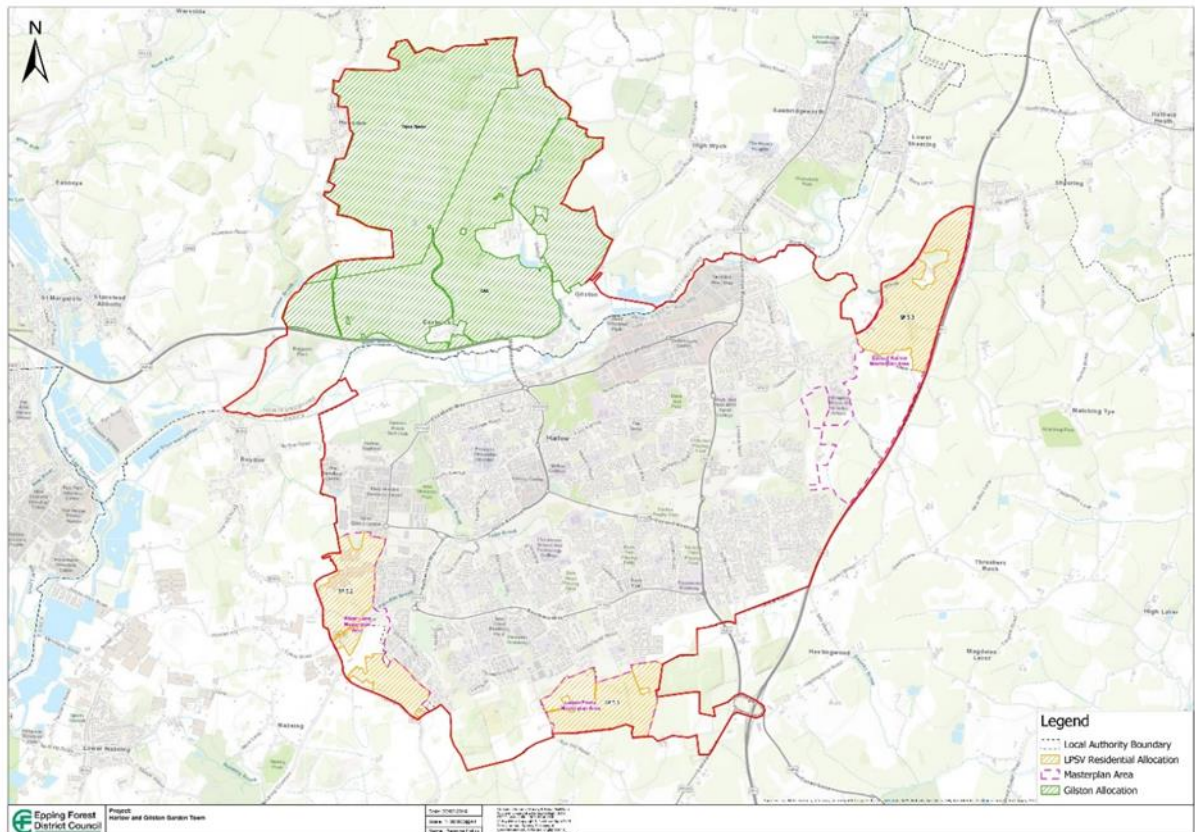
Joint Committee will take decisions and commission initiatives that impact the Harlow sub-region, which includes all of Harlow district and parts to the north of Epping Forest District.

- 3.3 Harlow and Epping Forest district councils have recently adopted local plans which will see Harlow grow further in the next ten years. The two districts, together with East Hertfordshire District Council and Hertfordshire County Council, have worked with Essex County Council to coordinate initiatives which aim to support sustainable and high-quality growth which delivers on the objectives of Everyone's Essex. In total, 23,000 new homes are planned to be built by 2040 across the Harlow sub-region. While old settlements around Harlow Mill date to Roman times, and those of Old Harlow to medieval times, Harlow's growth was most significant in the decades following designation as a New Town in 1947. The Garden Town initiative of recent years plans for the conurbation of Harlow to expand with garden communities planned to the north (at Gilston), east ('East of Harlow'), south (Latton Priory) and west (Water Lane).
- 3.4 Harlow and Gilston were designated as a Garden Town by the Ministry for Homes, Communities and Local Government in January 2017. HGGT is unique within England, in that housing and commercial development at strategic sites around Harlow is designed to be integrated with initiatives to regenerate Harlow town and town centre.
- 3.5 The Harlow Gilston Garden Town Partnership has since 2017 been a voluntary and informal arrangement of the five partner local authorities. The partnership benefits from financial contributions from partner authorities (including £150,000 from ECC in 2023/24). The partnership has no legal status at present but Epping Forest District Council serve as the Accountable Body for example supporting the partnership with HR and IT and maintaining a separate accounting structure. They also employ the HGGT Director and staff.
- 3.6 The partnership has established shared policies, plans and strategies, and has a successful track record of securing government funding and working with externally commissioned consultants and agencies to deliver additional work.
- 3.7 The scale of growth in an around Harlow has significant implications across ECC's statutory roles and services to residents. Notably, ECC oversees education, care, highways and public transport functions. The built-up area of Harlow is contiguous with the boundaries of Harlow district, established through the process of building out the New Town; Harlow Urban District being formed in 1955, being succeeded by Harlow District Council in 1974. With growth, Harlow will serve a wider population across three districts and two counties. This will bring challenges and opportunities. For example, additional traffic will be generated on the highway network, and investment will be secured from development for highways improvements and public transport infrastructure; additional passengers make public transport services more viable. New schools, expanded library provision and new supported and specialist housing will be required to serve the needs of a growing population.

- 3.8 In June 2021, Leaders and Lead Members of the current HGGT Board formally agreed that the current board model of informal, duty to cooperate led collective decision-making in cross boundary HGGT matters needed to evolve as the HGGT project moved from policy and plan making to project delivery. It was agreed that a formal constituted Joint Committee was needed to deliver locally led leadership, programme oversight and formalising audit functions and risk-sharing equally between all partners whilst ensuring all decisions are democratically accountable and transparent.
- 3.9 Homes England agreed to provide funding for infrastructure works in Essex and Hertfordshire to fund infrastructure to unlock housing as part of HGGT. This grant is referred to as Housing Infrastructure Grant ('HIG'). This grant is paid to HCC by Homes England. In March 2021, ECC and Hertfordshire County Council ("HCC") entered into an agreement under which ECC would deliver the highways infrastructure works in Essex funded by £42.1m of Housing Infrastructure Grant ("HIG").
- 3.10 The HIG money is to be used to both directly fund the delivery of the first phase of sustainable transport corridors (STCs) from the Gilston Villages to Harlow town centre and to secure a recovery and recycling strategy ("RRS") for the funding of future phases of the STCs using s106 planning contributions. The RRS is strategy for ensuring that those developers who benefit from the infrastructure pay the relevant part of the costs of that infrastructure, even if the works have already been completed. The money then paid can then be paid into a rolling infrastructure fund and used to fund further works. A similar agreement was entered into between HCC and Places for People (who are the developer of six of the seven new villages at Gilston) for the delivery of infrastructure works for which they are responsible.
- 3.11 In December 2021, the Leader took a decision (FP/203/10/21) agreeing for ECC to enter a non legally binding Memorandum of Understanding relating to the Rolling Infrastructure Fund (RIF). In the same Decision, it was agreed that officers would work alongside the HGGT Partners to explore the establishment of a Joint Committee for the Harlow and Gilston Garden Town. ECC entered the MoU, and officers have worked to define the scope of the proposed HGGT Joint Committee.
- 3.12 The Partnership Board, including the ECC member, voted in July 2023 to recommend that the authorities form a Joint Committee and enter into an Inter-Authority Agreement to govern the roles and responsibilities for member authorities under Joint Committee arrangements including the role of the Accountable Body. Each of the Partner Authorities is currently pursuing a decision to form a Joint Committee and enter into the IAA.

### **The Proposed Joint Committee**

- 3.13 It is proposed to create a statutory Joint Committee with members appointed by each of the five local authorities. The Joint Committee's functions would be exercisable over the cross boundary spatial growth area in and around Harlow (the 'HGGT Area', outlined in red below).



- 3.14 The purpose of the Joint Committee is to provide unified leadership to deliver the ambitious spatial growth proposals set out in the Local Plans of HDC, EHDC and EFDC supported by ECC and HCC to align and maximise opportunities for new and existing residents in the HGGT Area. The Joint Committee would have delegated authority to change and approve a 'Vision' for the HGGT, and to recommend changes to partner authorities on the boundary of the HGGT area across which it operates.
- 3.15 The Joint Committee will hold responsibility to bring forward 'good growth' by delivering the HGGT Vision to promote healthy and sustainable communities. It will also develop a strategy for the Rolling Infrastructure Fund (RIF) to administer and allocate the repayment of the Housing Infrastructure Grant and developer contributions in accordance with the terms set out by Homes England. A key area of investment, outlined in the adopted MoU for the RIF, is to create a network of Sustainable Transport Corridors for the sub-region as the critical programme of interventions to improve transport and mobility and achieve mode shift to sustainable travel modes. This RIF is likely to exceed £100 million. The design of a Rolling Infrastructure Fund (RIF) is a key purpose of the establishment of the Joint Committee, and agreement to the Accountable Body for and the establishment of financial management of the RIF by the Joint Committee would be subject to a further decision by all five local authorities.
- 3.16 In addition to developing the strategy for the establishment and operation of the RIF, the functions that the Joint Committee will exercise are, in summary to:

- approve, develop and maintain an overarching programme plan of key activities required to deliver the HGGT Vision, in particular housing and transport infrastructure.
- develop, approve and update the Transport Strategy relating exclusively to the HGGT Area, centring on mode shift, and recommending plans, programmes, policies or projects including area-wide public transport operating models.
- develop, approve and maintain documents, guides, strategies and guidance covering design, sustainability, infrastructure delivery, economic growth, land assembly, housing, stewardship, parking and 'green and blue' infrastructure.
- be consulted on relevant strategies and policies and initiatives of the Partner Authorities in relation to transport, economic development, housing where these affect the HGGT Area; and masterplans, design briefs, development briefs, funding bids and planning applications relating to major developments in Harlow Town Centre.
- make recommendations in respect of any spatial development plan being prepared by any Partner Authorities individually.
- establish and approve a Quality Review Panel to provide independent, objective, expert advice on master planning and planning applications for development proposals across the HGGT Area.
- oversee and assure consistent application of the HGGT Vision in relation to emerging masterplans for sites within the HGGT Area, including comment and making representations to the relevant Local Planning Authority in relation to any master plans; and making recommendations in respect of planning applications for strategic sites within the HGGT.
- develop, approve, maintain and implement a Communication and Engagement Strategy for the HGGT initiative.
- identify and recommend to any or all of the Partner Authorities opportunities to obtain external funding to support the HGGT Vision and programme.
- maintain compliance with relevant regulations for operation of Joint Committee decision-making, overseeing financial management including recommending the level of partner authority contribution.

3.17 The terms of reference for the Joint Committee are included in schedule 10 to the draft inter-authority agreement that it is recommended that ECC enter into with the other partner authorities. The IAA at Appendix 2 sets out in detail what type of decision can be made by the Joint Committee in relation to different functions: either approve, recommend, overview, or consult.

3.18 The initial proposal is that there will be little decision making authority conferred on the Joint Committee, with decision making on planning applications and transport proposals remaining with individual local authorities. There are also reserved decisions which are decisions which each local authority is required to make in accordance with its own decision making process. This includes any decisions which are inconsistent with any budget or policy frameworks of that relevant authority, agreement to the strategy for the RIF, agreement to a financial contribution to the running of the Joint Committee and any decisions that results in the delegation of the transport and highway powers vested in ECC and HCC as local highway authorities.

- 3.19 The Joint Committee cannot develop, approve or maintain development plan documents, supplementary planning documents or supplementary plans.

### **Proposed Operations of the Joint Committee**

- 3.20 The Joint Committee will initially last until 2033 although it's proposed to review it every five years.
- 3.21 Voting Membership of the Joint Committee consists of one elected Councillor from either Cabinet or a relevant Portfolio Holder, or an appointed deputy to the Leader or a member of the Cabinet with relevant portfolio. The Joint Committee Chair will be elected annually by the Joint Committee members.
- 3.22 As per statutory provisions for Joint Committees, voting will take place on a simple majority basis with the Chair of the Joint Committee holding a casting vote. However, a working protocol of a 4-1 majority is proposed, and provisions in the Inter Authority Agreement create a strong disincentive to using a casting vote to determine a decision of the Joint Committee – in effect to do so would precipitate a lower threshold of exit provision (reduced from 12 months to three months' notice).
- 3.23 The decisions of the Joint Committee will be subject to call-in by any of the partner authority overview and scrutiny committees.
- 3.24 The partner authorities agree to provide a senior executive officer to participate as a member of the Executive Officer Group and a Garden Town Lead Officer(s) to further the co-ordination and enabling programme of work alongside the HGGT Delivery Team, and to make appropriate in-kind resources available as required and agreed by the Joint Committee. The CEOs of the Partner Authorities, or the CEOs nominated deputies, will meet at least quarterly and in advance of the formal Joint Committee meetings to consider the papers and provide strategic advice.
- 3.25 The Accountable Body for the Joint Committee will be Epping Forest District Council, continuing arrangements for the present voluntary HGGT Partnership. Any other partner authorities could be the Accountable Body subject to agreement of all with the provision of a 12-month notice period. The services to be supplied by the Accountable Body are specified in the Inter Authority Agreement; the Accountable Body would employ HGGT staff. Roles and responsibilities of the Accountable Body are set out at clause 3 of the IAA.
- 3.26 Entering the Inter Authority Agreement compels each partner authority to:
- contribute financially to compensate the Accountable Body for the specified services to the Joint Committee (Schedules 3 and 4)
  - abide by exit provisions and consequences of termination (Schedules 5 and 6)
  - abide by a Data Sharing Schedule, recognising that each partner authority is a joint controller of shared personal data under data protection legislation (Schedule 8)

- work to realise the Rolling Investment Fund as per the MOU (Schedule 9): maximise the draw-down of Housing Investment Grant from Homes England; maximise recovery of HIG (from Places for People); maximise contributions from developers of strategic sites; and use reasonable endeavours to secure additional grant, or capital or revenue funding for the delivery of the network of Sustainable Transport Corridors.

## **Benefits**

- 3.27 Entering a Joint Committee creates a formal, democratically accountable structure for making important recommendations collectively with four other authorities. This has benefits for Essex residents in assuring greater transparency and accountability for important plans and strategies shaping the future of the Harlow sub-region.
- 3.28 Capitalising on the growth potential across the HGGT area requires robust collaboration across district and county boundaries, which is what the HGGT Joint Committee has been designed to provide. Entering the Joint Committee provides ECC with a stronger governance framework to manage infrastructure funding from government and from developers in the future, across the sub-region. This infrastructure funding is essential to support and planned growth sustainably and mitigate negative impacts.
- 3.29 Everyone's Essex involves focusing on garden communities to build sustainable, healthy neighbourhoods for the future that are climate resilient and contribute to net zero. The opportunity for the Harlow sub-region to attract high levels of new investment and new jobs, to enhance the quality of the built environment, and to deliver a step change in passenger transport and active travel provides benefits to existing as well as future residents. Forming the HGGT Joint Committee is recommended as the best route to realising these benefits.

## **Risks**

- 3.30 Entering Joint Committee arrangements gives status (or 'weight') to decisions taken in a partnership of five authorities exercising the functions of the Joint Committee outlined above. Where these decisions align with ECC policy and strategy, this is a positive.
- 3.31 However, there could be instances where Joint Committee decisions do not align, or indeed undermine policy and strategy adopted by ECC for all of Essex including the Harlow sub-region. Both the majority voting arrangements, and the working protocol to seek at 4-1 majority for decisions, create conditions for the Joint Committee to take decisions which ECC's member has voted against.
- 3.32 This risk can be managed and mitigated through the close partnership working arrangements evidenced since 2017, and the alignment between policy and strategy of adopted plans and strategies among district and county council partners. If the decisions of the Joint Committee were considered to be frequently inconsistent with ECC corporate objectives, policy and strategy,



there are exit provisions from Joint Committee arrangements – though these involve incurring some continued financial liability for partner contributions.

### **Next Steps (If Approved)**

- 3.33 Once agreed by each of the partner authorities, it is proposed that the HGGT Board moves quickly into 'shadow' Joint Committee arrangements to assist the partner authorities in enabling the working arrangements and supporting members prepare for full implementation of the Joint Committee.
- 3.34 It is anticipated that each partner authority will have concluded the necessary formal adoptions to agree the implementation of the Joint Committee by the end of the 2023 calendar year and that the first meeting of the HGGT Joint Committee would be scheduled to be held in March 2024.
- 3.35 The draft agreement at Appendix 2 was considered by the HGGT Board in summer 2023. Since that time three of the five authorities, including ECC, have asked for minor changes to be made. These changes are collated in Appendix 1. These were discussed at a meeting in November 2023 at a meeting at which all five monitoring officers were either present or represented and there was no disagreement.
- 3.36 It is therefore proposed and expected that the executed agreement will be that set out in Appendix 2, with the modifications set out in Appendix 1.
- 3.37 In summary, the changes :
- improve clarity
  - improve rights for scrutiny, including for the Joint Committee to hear questions from the public and members and the right for a partner authority's scrutiny committee to request the attendance of an HGGT person.
  - make the agreement align more closely with the law, for example reflecting the statutory definition of key decision and making it clear when a decision would be a key decision
- 3.38 It is therefore proposed to give the monitoring officer authority to enter into the agreement as set out in paragraph 3.36 but with the authority to make minor changes, including not making any of the changes in Appendix 1 if he considers this to be in the council's best interests and after consulting the Cabinet Member.

## **4 Links to our Strategic Ambitions**

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

- Develop our County sustainably.
- Connect us to each other and the world
- Share prosperity with everyone

- 4.2 Approving the recommendations in this report will have no direct impact on the Council's ambition to be net carbon neutral by 2030 but through Joint Committee working ECC will be able influence and accelerate the transition to low carbon sustainable economic growth, low carbon sustainable development, and low carbon sustainable travel in the Harlow sub-region, minimising the impact on the climate.
- 4.3 This report links to the following strategic priorities in the Organisational Strategy 'Everyone's Essex':
- A strong, inclusive and sustainable economy
  - A high quality environment
  - Health wellbeing and independence for all ages
  - A good place for children and families to grow
- 4.4 The relevant Strategic Priorities in ECC's Organisation Strategy are to:
- Enable Essex to attract and grow large firms in high growth industries: improving Harlow's economic offer and investment proposition.
  - Target economic development to areas of opportunity: noting the location of Harlow within the UK Innovation Corridor and the status of Harlow as a Levelling Up priority area for ECC.
  - Help to secure sustainable development and protect the environment: through ensuring that new homes and communities meet high environmental standards and maximising sustainable mode share for travel.
  - Facilitate growing communities and new homes: through the planned growth in and around Harlow supported by the relevant infrastructure.

## **5 Options**

- 5.1 The recommended option is for ECC to enter the Harlow Gilston Garden Town Joint Committee. The proposed Inter Authority Agreement to do so is contained at Appendix 2, subject to final drafting amendments (Appendix 1), and executed under delegated authority sought in this decision. The benefits and risks of entering the Joint Committee are described in Section 3 above.
- 5.2 Alternatively, ECC could choose not to enter the HGGT Joint Committee. This is not recommended. If ECC do not enter the Joint Committee, ECC are likely to lose influence in shaping development and growth plans affecting existing and future residents in the Harlow sub-region, it is likely that the Joint Committee as currently proposed would not proceed in its current proposed form among the remaining four authorities. The authorities would likely retain voluntary working arrangements; the relationship between ECC and the other four authorities would be damaged within such arrangements, and this would likely mean that coordination and effectiveness was diminished.
- 5.3 Notably, outside of any Joint Committee, ECC would retain its statutory roles and functions in relation to new development. This would include being a consultee to local plans and planning applications for major developments, and

a signatory to legal agreements to secure infrastructure contributions from developers. Furthermore, inter-dependencies – including infrastructure delivery and highways mitigation and transport planning – in the development of large sites allocated for development across the sub-region in Harlow district, Epping Forest district, and East Hertfordshire district, represent strategic matters that cross administrative boundaries. As such, in a scenario without a Joint Committee, ECC would be compelled to pursue further joint working, including preparing and maintaining ‘statements of common ground’ under the ‘duty to cooperate’ prescribed in the National Planning Policy Framework set by central government.

## **6 Issues for consideration**

### **6.1 Financial implications**

6.1.1 ECC, as part of the current informal structure around Harlow Gilston Garden Community, already contributes funds to support joint endeavours, as do the other Local Authorities involved in the various programmes.

6.1.2 In 2022/23, ECC contributed £100,000 to the HGGT. The budgeted allocation for 2023/24 that is specifically allocated to Harlow Gilston is £150,000. and this will be sufficient to contain the proposed annual accountable body recharge of £12,289. It is considered, at present, that future years’ contributions should be of the same level of materiality.

6.1.3 Within the Medium Term Resource Strategy (MTRS), there is a draft budget from 2024/25 onwards of £250,000 that could be used to fund contributions required of and agreed to by ECC by joining the Joint Committee; however, this budget must also be used to fund contributions to Colchester-Tendring Borders Garden Community (as it has been in prior years). How these funds are allocated each year is a decision taken by officers and any increase or decrease would need to be agreed to by all partners so as to stay within the budgeted contributions envelope. Any increase beyond this envelope would require further formal governance.

6.1.4 The HGGT Director, in consultation with the partner authorities, is required to bring a proposed budget on a 3-year rolling basis annually to the Joint Committee. This should set out the proposed level of partner authority contributions to fund the co-ordinating and enabling work, staffing costs and Accountable Body services to deliver the Joint Committee’s aims. The partner authorities agree to make contributions to meet the agreed budget costs.

6.1.5 There is a risk that the required contribution could exceed ECC’s budgeted allocation, ECC’s representative would look to mitigate this risk through negotiations at the Joint Committee.

6.1.6 Appropriate governance must be taken in order for ECC to agree to any contribution decision taken at the Joint Committee.

## **6.2 Legal implications**

- 6.2.1 The five 'Partner' authorities are local authorities for the purposes of the Local Government Act 1972 and best value authorities for the purposes of the Local Government Act 1999. Under sections 101(5) and 102(1) of the Local Government Act 1972 and Regulations 10 and 11 of The Local Authorities (Arrangements for the Discharge of Functions) England Regulations 2012, local authorities may arrange for the discharge of their functions by a Joint Committee comprising members of their authorities.
- 6.2.2 Alongside this, the five local authorities are proposing to enter into an inter-authority agreement to govern the arrangements between the parties for the Joint Committee including relevant financial contributions and the Accountable Body arrangements.
- 6.2.3 Epping Forest District Council (EFDC) will be the Accountable Body on the date that the IAA comes into effect and a fee is payable to EFDC by each local authority for the services that it will provide as Accountable Body. EFDC, as the Accountable Body to the Joint Committee, will employ a HGTT delivery team and provide office space. It will also provide democratic services support, legal advice, audit services, insurance and financial support for in year forecasting and budgeting for the Joint Committee. The charges for these services' payable to EFDC are scheduled to the IAA (Schedule 4).
- 6.2.4 The Accountable Body will not have responsibility for the Rolling Infrastructure Fund (RIF) under the current terms of the IAA. The RIF shall comprise, as a minimum, HIG repayment funding and developer s106 contributions or Community Infrastructure Levy contribution from Garden Town Developments if applicable. The RIF will be used to collect payments from developers with respect of infrastructure which has been funded by others and to pay for new infrastructure. Thus developers will still have to pay for the cost of the infrastructure where the need arises as a result of their development.
- 6.2.5 Agreement to the Accountable Body for the RIF is a reserved decision and must be agreed by each local authority through their own decision making process. Until this time, and subject to the paragraph below, the MOU that the parties entered in Spring 2022 will continue to apply to any developer contributions received. ECC has already taken a decision to enter into the MOU and the MOU is included as Schedule 9 of the IAA.
- 6.2.6 Under the terms of the IAA, the Joint Committee, through EFDC as Accountable Body, is able to hold developer contributions passported to them for purposes other than the RIF for example area-wide monitoring regimes, behaviour change campaigns, or labour market initiatives (skills training, apprenticeship schemes).
- 6.2.7 The five local authorities commit in the IAA to co-operate to develop, agree and implement the RIF strategy described in the MOU. In particular, this means working together to develop an investment strategy to guide future decisions about which projects should benefit from RIF funding.

6.2.8 Twelve months' notice of intention to leave the Joint Committee and IAA is to be provided unless agreed otherwise by all parties although any partner can trigger a three month notice period if the Chair of the Joint Committee exercises their casting vote in a way that any other authority in the Joint Committee disagrees with. Any local authority leaving the Joint Committee and exiting the IAA may be liable for potential redundancy costs and contract breakage costs. In the event that all authorities agree to discontinue the Joint Committee, the costs of exit shall be shared equally between them.

## **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, sex, 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 Equalities Comprehensive Impact Assessment (ECIA) indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic. The ECIA details that positive impacts are likely for inclusion health groups, Levelling Up priority cohorts, people living in areas of high deprivation, and other priority groups. Most significantly, the Joint Committee structure provides a stronger governance framework for the achievement of the HGGT Vision including the delivery of a higher rate of housing growth, which will include affordable housing, and a growing proportion of travel by sustainable travel modes, including the delivery of new infrastructure. As such, positive impacts relate to individuals and households with low income, including those who are less likely to have access to a private car for transport, and those who have specific housing needs.
- 7.4 In several aspects, the impact of this Decision on groups with particular characteristics including protected characteristics cannot be known at this point. This is because the content of subsequent activity of the Joint Committee (including taking decisions and commission and implementing various initiatives) is not known. The Joint Committee, when formed, will itself be subject to the Public Sector Equality Duty and the need to have regard to the duty in making decisions (as described in para 7.1).

## **8 List of Appendices**

- 8.1 Appendix 1 - Proposed changes to the Inter Authority Agreement supported by the monitoring officers
- 8.2 Appendix 2 – Draft Inter Authority Agreement
- 8.3 Appendix 3 - Equalities Comprehensive Impact Assessment

## **9 List of Background papers**

Decision (FP/203/10/21)

**APPENDIX 1**

**List of amendments proposed to the draft agreement at Appendix 2 which is supported by the monitoring officers of ECC, EFDC, EHDC, HCC and HDC and which we intend to make to the agreement before execution**

<b>Section of IAA</b>	<b>Amendment</b>	<b>Reason for the change</b>
3.2.2	Clarify that 'Chair' is 'Joint Committee Chair'	To avoid confusion with another Chair that may be relevant to the Accountable Body
5.5.3	Capitalise 'Project Funding'	Project Funding is a defined term in Schedule 1
Schedule 1 Definitions	Project Funding definition amended to exclude contributions relating to infrastructure schemes that are Initial Projects (as defined in Schedule 9) or Subsequent Projects (as defined in paragraph 6.1 of Schedule 9); uncapitalise 'Developer Contributions'	Consistency with definitions elsewhere in the IAA: that the Accountable Body for the RIF, and developer contributions destined for the RIF, is to be determined by the RIF Strategy which is to be agreed by the JC and then by Partner Authorities. Schedule 9, the RIF MOU, states (in Section 2) that partner authorities hold such contributions until such time as the RIF takes effect. This insertion ensures that Project Funding excludes RIF-destined funding, by referencing the RIF MOU (Schedule 9) definition of the relevant projects to which contributions are destined. Uncapitalising 'developer contributions' avoids implying this definition exists/is missing within the IAA.
Schedule 1 Definitions	RIF (Rolling Infrastructure Fund) definition amended to specify 'developer contributions including the repayment of HIG Funding secured under relevant planning permissions' rather than 'HIG Repayment Funding and the Developer Contributions'	Since neither 'HIG Repayment Funding' nor 'Developer Contributions' are defined in the IAA, this change echoes the definition present in Schedule 9, the RIF MOU, where 'HIG Funding' is defined. Repayment of HIG is secured under relevant planning permissions (existing/potential/future) as laid out at 5.1.1 of Schedule 9.
Schedule 10, 2.6	Specify 'the relevant parts of' Schedule 12 of the Local Government Act 1972	Some parts of Schedule 12 only apply to Parish Councils etc., so reference to relevant parts is factually correct. Without this change the JC is binding itself to provisions of legislation which aren't designed to apply.

<b>Section of IAA</b>	<b>Amendment</b>	<b>Reason for the change</b>
Schedule 10, Section 3 (Definitions)	Inclusion of all definitions used in Schedule 10, within Section 3 of Schedule 10 – copied verbatim from the Deed and Schedules of the IAA.	There is no substantive change in repeating definitions verbatim between different Schedules of the IAA; but it is impractical to insert Schedule 10 into the ECC constitution without this repetition. Without this repetition, the constitutional text would rely on an external set of documents, which is not acceptable.
Schedule 10; 4.6.1	Change threshold of a 'Reserved Decision' to one which 'would result in a breach' of a Partner Authority's budget and/or policy frameworks, rather than one which is 'inconsistent'.	Clarity of drafting; underspend against budget is an example of where inconsistency has occurred but is not necessarily problematic; 'breach' is clearer.
Schedule 10; 4.6.2	Clarify JC does not have power to take decisions that result in the delegation of the transport and highways powers vested in ECC and HCC as highways authorities	Without this insertion, the wording implies that transport and highways decisions <i>could</i> otherwise be taken by JC if not Reserved. This insertion clarifies this is not the case, for the avoidance of doubt.
Schedule 10; 5.4	Clarify that that casting vote may be exercised by a person presiding as Chair, not necessarily the appointing JC Chair themselves	Consistency with proposed arrangements for chairing JC meetings at Schedule 10, Section 10, which make provision for a chair to be the appointed Vice-Chair or another member.
Schedule 10; 8.1	Clarify that some partner authorities refer to 'Executive' rather than 'Cabinet'  Specify that members of an Overview and Scrutiny Committee of a partner authority cannot be appointed a member to the Joint Committee.	Consistency with nomenclature used by EHDC as a partner authority.  For the avoidance of doubt; this is already prohibited under statute but will help avoid partners making such an appointment as a mistake.
Schedule 10; 11.1.3 and 11.1.8	Remove reference to 'ModGov portal' of the Accountable Body; replace with 'website'	Future-proof in case a change in website/portal provider from ModGov
Schedule 10; 15.1	Amend text to cross-reference paragraph 14 of this Schedule, which specifies that the Chair may call a JC meeting.	Creates consistency: the Chair, as well as the Joint Committee, <i>both</i> have the ability to schedule meetings.
Schedule 10; 15.4	Specify that the entitlement to attend JC meetings applies equally to the Section 151 Officer and Monitoring Officer of all partner authorities	For the avoidance of doubt; without insertion this could be interpreted as only S151 of the Accountable Body (which is the definition in the IAA) or any S151 of any authority (e.g. neighbour of the five authorities).



<b>Section of IAA</b>	<b>Amendment</b>	<b>Reason for the change</b>
Schedule 10, 18.1	Specify that quorum of a meeting of any sub-committee of the JC will be all voting members.	Quorum for sub-committees needs to be specified.
Schedule 10; 20.3	Specify that minutes of each JC meeting shall be published on the Accountable Body's website	This is standard practice that should be assured; the clause references requirements of Part VA of the Local Government Act 1972 which did not anticipate online publication channels.
Schedule 10; 21.1	Specify that where a member of a Partner Authority has been appointed as a valid substitute for a JC member, that substitute may vote in meetings.  Specify that (additional to being invited to speak at the invitation of the Chair), members of partner authorities may submit written questions to the Committee in advance of the meeting which may be answered at the discretion of the Chair.	Consistency with Schedule 10, section 8, which specifies the process of appointing a valid substitute and their voting right.  Consistency with equivalent processes for other committees across partner authorities.
Schedule 10; 21.2	Clarify that members of the public may submit written questions to the Committee pursuant to the business of the meeting concerned which may be answered at the discretion of the Chair or replied in writing following the meeting.	Consistency with equivalent processes for other committees across partner authorities.
Schedule 10; 24.2	Clarify that some decisions are to be exempt from call-in, cross-referencing clause 24.7; specify that the Accountable Body will produce a list of decisions taken at any meeting of the Joint Committee and circulate it to the Proper Officer of each Partner Authorities – number of days to be specified before entering Deed.	Dissemination protocols are essential to proper functioning, so that members across all authorities are notified and know what they may wish to call-in.
Schedule 10; 24.2	Clarify that any member of any partner authority can call-in a JC decision to the overview and scrutiny committee of that authority; rather than limit call-in to only be capable of being exercised by the committee itself.	Creates greater consistency with how call-in is exercised within partner authorities, including reference to the authority having requirements of the call-in function.
Schedule 10; 24.3	Clarify that sub-clauses apply to JC decisions when decisions are called in, rather than (anything) which is <i>subject</i> to call-in (but may not ultimately be called in).	Greater clarity in drafting
Schedule 10; 24.3	New sub-clause stating that 'If an overview and scrutiny committee of a Partner Authority requires the HGGT Director and any officer of any Partner	This provision echoes the statutory provisions for overview and scrutiny committees in the

<b>Section of IAA</b>	<b>Amendment</b>	<b>Reason for the change</b>
	Authority who has been involved in the preparation of a report which led to the decision which has been called in, it is the duty of that officer to comply with any such requirement.'	Local Government Act 2000, Section 9FA, paragraphs 8 and 9
Schedule 10; 24.4	Change requirement upon partner authorities and Accountable Body to ensure appropriate officers are notified of the date, time and place of a meeting of an overview and scrutiny committee of any partner authority, where that committee is considering a call-in relating to a decision of the JC.	The requirement that officers attend meetings is via the statutory provisions for overview and scrutiny committees in the Local Government Act 2000, Section 9FA, paragraphs 8 and 9; authorities cannot ensure attendance but can ensure notification.
Schedule 10; 24.6	Add clarification that a decision is only exempted from call-in if all Partner Authorities agree.	This protocol for unanimous agreement is already the intention among all partners for how the process will function to exempt decision from call-in. Without this insertion requiring positive agreement, there is no explicit provision for how the process would work in the event of non-response from one or more authorities.
Schedule 10; Appendix 3, recitals	Clarify that Functions of the JC are 'delegated' from, rather than 'transfer' from, partner authorities; remove reference to HGGT Board.	The HGGT Board ceases to exist at the point the JC is formed.
Schedule 10; Appendix 3, para 7	Amend description of 'key decision' to specify that such decisions relate to executive functions; are 'likely' to have financial impacts beyond £200,000 (revenue) or £2,000,000 (capital); and affect people 'living or working' in more than one ward 'or electoral division'.	Consistency with statutory definition of what a key decision is; consistent with the ECC nomenclature for electoral divisions (rather than wards).
Schedule 10; Appendix 3, para 8	Specify that key decisions can only be made at such times where the Joint Committee is a decision making body within the meaning of regulation 2 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	Consistency with statutory provision for rules to apply as and when the JC is a decision-making body under statute.
Schedule 10; Appendix 3, para 43	Remove hyperlink	The hyperlink is incorporated by reference and we cannot control what is linked to, which is likely to change over time.