



Essex County Council

Cabinet

10:00	Tuesday, 16 February 2021	Online Meeting
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The meeting will be open to the public via telephone or online. Details about this are on the next page. Please do not attend County Hall as no one connected with this meeting will be present.

For information about the meeting please ask for:

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Essex County Council and Committees Information

All Council and Committee Meetings are held in public unless the business is exempt in accordance with the requirements of the Local Government Act 1972.

In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held via online video conferencing.

Members of the public will be able to view and listen to any items on the agenda unless the Committee has resolved to exclude the press and public from the meeting as a result of the likely disclosure of exempt information as defined by Schedule 12A to the Local Government Act 1972.

How to take part in/watch the meeting:

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democratic.services@essex.gov.uk by noon on the day before the meeting. Please note that your question must relate to an item on the agenda for the meeting.

Accessing Documents

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Please note that an audio recording may be made of the meeting – at the start of the meeting the Chairman will confirm if all or part of the meeting is being recorded.

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1	Membership, apologies, substitutions and declarations of interest	5 - 5
2	Minutes: 19 January 2021	6 - 20
3	Questions from the Public A period of up to 15 minutes will be allowed for members of the public to ask questions or make representations on any item on the agenda for this meeting. No statement or question shall be longer than three minutes and speakers will be timed. If you would like to ask a question at this meeting, please email Democratic Services by 12 noon the day before (Monday 15 February 2021).	
4	Future Temporary Resourcing Services (FP/860/11/20) The Equality Impact Assessment is available online – please scroll to bottom of page, below Meeting Documents	21 - 38
5	Approval to place 2021/22 contractual task orders with Ringway Jacobs for values of £2m and over (FP/918/12/20) The Equality Impact Assessment is available online – please scroll to bottom of page, below Meeting Documents	39 - 46

- 6 Establishment of a new 210 place primary school and 56 place early years provision at the St Luke's housing development, Runwell (FP/866/11/ 20) 47 - 55**

The Equality Impact Assessment is available [online](#) – please scroll to bottom of page, below Meeting Documents

- 7 Land at Hamberts Farm, South Woodham Ferrers – Residential Development (FP/800/09/20) 56 - 63**

The Equality Impact Assessment is available [online](#) – please scroll to bottom of page, below Meeting Documents

- 8 Integrated Waste Handling Service Delivery Options (FP 904 12 20) 64 - 85**

The Equality Impact Assessment is available [online](#) – please scroll to bottom of page, below Meeting Documents

- 9 Decisions taken by or in consultation with Cabinet Members (FP/941/01/21) 86 - 88**

- 10 Date of Next Meeting**

To note that the next meeting of the Cabinet will take place online at 10am on Tuesday 16 March 2021.

- 11 Urgent Business**

To consider any matter which in the opinion of the Chairman should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

Exempt Items

(During consideration of these items the meeting is not likely to be open to the press and public)

The following items of business have not been published on the grounds that they involve the likely disclosure of exempt information falling within Part I of Schedule 12A of the Local Government Act 1972. Members are asked to consider whether or not the press and public should be excluded during the consideration of these items. If so it will be necessary for the meeting to pass a formal resolution:

That the press and public are excluded from the meeting during the consideration of the remaining items of business on the grounds that they involve the likely

disclosure of exempt information falling within Schedule 12A to the Local Government Act 1972, the specific paragraph(s) of Schedule 12A engaged being set out in the report or appendix relating to that item of business.

12 Confidential Appendix: establishment of a new 210 place primary school and 56 place early years provision at the St Luke's housing development, Runwell (FP/866/11/20)

- Information relating to the financial or business affairs of any particular person (including the authority holding that information);

13 Confidential Appendix: land at Hamberts Farm, South Woodham Ferrers – Residential Development (FP/800/09/20)

- Information relating to the financial or business affairs of any particular person (including the authority holding that information);

14 Confidential Appendix: Integrated Waste Handling Service Delivery Options (FP/904/12/20)

- Information relating to the financial or business affairs of any particular person (including the authority holding that information);

15 Urgent Exempt Business

To consider in private any other matter which in the opinion of the Chairman should be considered by reason of special circumstances (to be specified) as a matter of urgency.

Committee: Cabinet

Enquiries to: Emma Tombs, Democratic Services Manager
Emma.tombs@essex.gov.uk

Membership, Apologies, Substitutions and Declarations of Interest

Recommendations:

To note:

1. Membership as shown below
2. Apologies and substitutions
3. Declarations of interest to be made by Members in accordance with the Members' Code of Conduct

Membership
(Quorum: 3)

Portfolio

Councillor D Finch	Leader of the Council (Chairman)
Councillor K Bentley	Deputy Leader and Infrastructure (Vice-Chairman)
Councillor T Ball	Economic Development
Councillor S Barker	Customer, Communities, Culture and Corporate
Councillor R Gooding	Education and Skills
Councillor D Madden	Performance, Business Planning and Partnerships
Councillor L McKinlay	Children and Families
Councillor J Spence	Health and Adult Social Care
Councillor S Walsh	Environment and Climate Change Action
Councillor C Whitbread	Finance

Minutes of a meeting of the Cabinet that was held remotely on Tuesday 19 January 2021

Present:

Councillor	Cabinet Member Responsibility
Councillor D Finch	Leader of the Council (Chairman)
Councillor T Ball	Economic Development
Councillor S Barker	Customer, Communities, Culture and Corporate
Councillor K Bentley	Deputy Leader and Infrastructure
Councillor R Gooding	Education and Skills
Councillor L McKinlay	Children and Families
Councillor D Madden	Performance, Business Planning and Partnerships
Councillor J Spence	Health and Adult Social Care
Councillor S Walsh	Environment and Climate Change Action
Councillor C Whitbread	Finance

Councillors Mackrory, Durham, Goggin, Turrell, Hedley, Aldridge, Young, Scordis, Wagland, Buckley, Steptoe, Mitchell, Harris, Henderson, Jackson, Wood, Grundy and Pond (for agenda items 1-4 only) were also present.

1. **Membership, Apologies, Substitutions and Declarations of Interest.**

The report of Membership, Apologies and Declarations was received and the following were noted:

1. There had been no changes to membership since the last meeting of Cabinet.
2. Apologies were received from Councillor Pond for agenda items 5-17.
3. There were no declarations of interest.

2. **Minutes: 15 December 2020**

The minutes of the meeting held on 15 December 2020 were agreed as a correct record and would be signed by the Chairman.

3. **Questions from the public**

One question from a member of the public was received in relation to agenda item no.10, Education Travel Contract Extensions and Awards 2021 (FP/893/11/20):

“We are sure members will appreciate that Bus and Coach Operators across the country have been subject to a huge downturn in income since March

2020. Many companies have already ceased trading and the majority that are still trading are still under severe pressure to stay solvent.

The members of CPT Essex would implore you to consider extending all existing home to school contracts for another year irrespective of their term length. This would give stability during the rest of the pandemic and ensure continuity of revenue for a further 12 months”.

The Cabinet Member for Education and Skills responded to this question prior to his presentation of the report at item no.10 on the agenda.

4. **Beaulieu Park Railway Station Project: Commissioning of Network Rail GRIP Stage 4 – single option development including design (FP/840/10/20)**

The Cabinet considered a report advising that Essex County Council was in the process of working with Network Rail on the design and feasibility of the Beaulieu Park Station in accordance with a Memorandum of Understanding entered into in 2015. The report requested authority to enter into an agreement with Network Rail to develop a single option. It was advised that this next phase of work was known as ‘GRIP (Governance in Rail Investment Projects) stage 4’.

The Leader of Council responded to questions from Councillors Pond and Mackrory in respect of the impact of the Station on existing mainline services, the pattern of service provision, the number and configuration of platforms to be provided, the configuration of bus and rail interchanges, and the impact of GRIP stage 3 being over budget.

Resolved:

1. That ECC enters into the Development Services Agreement (DSA) with Network Rail for GRIP stage 4 to enable the Beaulieu Park Station Project to progress through GRIP Stage 4 for the sum of £5.903m.
2. That the Director, Highways and Transportation may:
 - 2.1 Undertake value engineering on the project to reduce the total scheme costs by £14m to bring it within budget provided it does not expose ECC to cost escalation funding risk; or
 - 2.2 Cancel the GRIP 4 agreement at the least possible cost to the Council if we cannot reach agreement with Homes England on the HIF funding agreement.

5. **A127/A130 Fairglen Interchange – Decision to acquire land by Compulsory Purchase (FP/875/11/20)**

The Cabinet received a report asking for agreement that a compulsory purchase order can be made if necessary, to progress the Fairglen Interchange project, and asking the Cabinet to agree that a Side Roads Order

can be made and/or traffic regulation and speed limit orders if necessary, to progress the Fairglen Interchange project.

Resolved:

1. That if the Director, Performance, Investment and Delivery was unable to acquire the land shown in Appendix 2.1 of the report by agreement on reasonable terms he may, after consulting the Leader of the Council and the Director, Legal and Assurance, authorise:
 - a) the making of one or more compulsory purchase orders for the construction of the A127/A130 Fairglen Interchange project for the purposes set out in the schedule at Appendix 3 of the report and publicise the same
 - b) the undertaking of additional processes (Side Roads Orders and/or traffic regulation and speed limit orders) required for the changes of the existing road network as a result of the project, and
 - c) to pursue the Orders to confirmation.
2. To authorise the Director for Performance, Investment and Delivery to agree minor changes to the proposed CPO schedules (Appendix 2.1) and to the boundaries of the land to be acquired (Appendix 3) after consulting the Leader of the Council.
3. To agree an updated project budget of £32.3m. This is a net increase of £3.6m from the value previously approved in the Capital Programme, reasons for which are included at 6.1 of the report:
 - The £3.6m is profiled as follows: 2021/22 - £4.7m reduction; 2022/23 - £6.3m increase; 2023/24 - £2m increase
 - £500,000 is a transfer from existing budget allocation for Cycling Infrastructure in 2022/23

6a. Organisation Plan and Budget 2021/22 – Part 1: Section 151 Officer Report (FP/696/05/20)

The Cabinet received a report setting out the Section 151 (S151) Officer's statement on the adequacy of reserves, robustness of the 2021/22 revenue budget, as well as the Financial Strategy and the Capital and Treasury Management Strategy.

The Leader of the Council advised that questions on both agenda items 6a and 6b would be taken prior to the presentation of the respective reports.

The Cabinet Member for Finance responded to questions from Councillors Henderson, Mackrory, Young and Turrell in relation to:

- The freeze on Council tax and the rationale for this;
- The borrowing required in relation to the Capital programme;
- The potential for cuts in service provision; and
- Whether lobbying had been undertaken in relation to the one year provision of the grant from central Government;

The Cabinet Member for Children and Families responded to questions from Councillors Henderson and Mackrory in respect of the Family Resilience programme and the impact of the earlier closure of Children's Centres.

The Cabinet Member for Health and Adult Social Care responded to a question from Councillor Mackrory concerning potential budgetary impacts on the Meaningful Lives Matters and Connect programmes.

The Cabinet Member for Environment and Climate Change Action responded to a question from Councillor Mackrory in relation to increases to fees and charges for car parking at country parks and fishing permits.

The Cabinet Member for Finance would also provide written answers to Councillor Mackrory in relation to:

- How the Council Tax collection rate had been forecast;
- The level of concern in relation to the level of the projected three year deficit;

to Councillor Young in relation to the intentions for future library provision, and to Councillor Turrell regarding the levels of the general reserves.

Resolved:

That the report was noted.

6b. Organisation Plan and Budget 2021/22 – Part 2: Budget and Plan (FP/696/05/20)

A report was received asking that the Cabinet makes a recommendation to the Council to adopt the Organisation Plan and Budget 2021/22 including the revenue budget, capital programme, financial strategy and capital strategy.

Resolved:

Organisation Plan and Revenue Budget:

Cabinet made the following recommendations to Full Council:

1. That the Organisation Plan be approved in the form appended to the report (Appendix A).
2. That the net cost of services to be set at £1,030.7million (m) for 2021/22 – Appendix A (page 37 of the report).

3. That the net revenue budget requirement to be set at £893m (net cost of services less general government grants) for 2021/22 – Appendix A (page 41 of the report).
4. That the total council tax funding requirement be set at £719.1m for 2021/22 – Appendix A (page 41 of the report).
5. That Essex County Council's element of the council tax be increased by 1.5% for the adult social care precept, using the flexibility set out by government to raise a precept of up to 3% for the 'adult social care precept'. Therefore the Essex County Council element of the council tax charge for a Band D property in 2021/22 will be £1,340.91. A full list of bands is as follows:

Council Tax Band	2020/21	2021/22
	£	£
Band A	880.74	893.94
Band B	1,027.53	1,042.93
Band C	1,174.32	1,191.92
Band D	1,321.11	1,340.91
Band E	1,614.69	1,638.89
Band F	1,908.27	1,936.87
Band G	2,201.85	2,234.85
Band H	2,642.22	2,681.82

6. That, subject to the funding position prevailing next year, the Council intends to raise council tax in 2022/23 to use the remaining 1.5% adult social care precept in 2022/23.
7. That the proposed total schools budget be set at £567.4m for 2021/22 which will be funded by the Dedicated Schools Grant, Universal Free School Meals Grant, Pupil Premium Grant, PE and Sports Premium Grant, Sixth Form Grant and the COVID-19 Catch-up Grant. The majority of this will be passed through to maintained schools.
8. That the underlying balance on the General Balance be set at £65.5m as at 1 April 2021 (Appendix A, Annex 1, page 68 of the report).
9. That the capital payments guideline be set at £290.3m for 2021/22 and that the Executive Director for Finance and Technology, in consultation with the Cabinet Member for Finance, be authorised to make adjustments to the phasing of payments between years (should that be necessary) as the capital programme is finalised, and to report any impact on the Prudential Indicators at the subsequent quarterly review to Cabinet in July

2021. Any requests to change the prudential borrowing indicators would be brought back before Full Council.

Cabinet agreed the following:

10. That the Cabinet Member for Finance, in consultation with the Executive Director for Finance and Technology, may adjust the recommendations to Full Council upon receipt of:

(a) the final tax base and forecast business rates receipts for 2021/22 from the billing authorities (due by 31 January 2021)

(b) the final settlement from Government (expected early February 2021)

11. That the report by the Executive Director for Finance and Technology (S151 officer) on the robustness of the estimates, reserves and capital strategy be noted (as per the separate item on the agenda).

Capital Strategy:

Cabinet made the following recommendations to Full Council:

12. That the 2021/22 to 2024/25 Prudential Indicators and limits, together with updated limits for 2020/21 as set out in Annexes 3A and 3B of the Capital Strategy (Appendix A) be approved.

13. That the Treasury Management Strategy for 2021/22 be approved, comprising:

a. Borrowing strategy, as set out in Annex 3 of the Capital Strategy (Appendix A, Annex 3, page 79 of the report).

b. Treasury management investments strategy, as set out in Annex 3 and Annex 3D of the Capital Strategy (Appendix A, Annex 3, page 86 of the report).

c. Indicative strategy for commercial investment activities, as set out in Annex 3 of the Capital Strategy (Appendix A, Annex 3, page 89 of the report).

14. That the policy for making a prudent level of revenue provision for the repayment of debt, (the Minimum Revenue Provision policy) as set out in Annex 3C of the Capital Strategy (Appendix A, Annex 3, page 97 of the report), be approved.

Pay Policy Statement:

Cabinet made the following recommendation to Full Council:

15. To recommend that the Council adopts the Pay Policy Statement for 2021/22 as set out in Appendix C.

Flexible Use of Capital Receipts Strategy 2021/22:

Cabinet are requested to make the following recommendation to Full Council:

16. To recommend that the Council approves the Flexible Use of Capital Receipt Strategy for 2021/22 (Appendix E), using the short term discretion from government to use £1.3m of capital receipts to fund transformation projects that save money or reduce costs.

Cabinet noted:

17. That the medium term (2022/23 to 2024/25) revenue issues facing the Council as set out in the report (Appendix A, page 31 of the report); at present we do not have a balanced budget from 2022/23 and further action will be necessary to identify plans and savings to ensure financial sustainability. The position is based on the best intelligence available today including future funding, price rises and demand. However, in the absence of a government settlement beyond 2021/22 and the inherent uncertainty notably given the pressures arising as the pandemic recedes, the financial outlook is volatile.
18. That the recommendations in this report present a balanced budget for 2021/22. The Council's plans for 2022/23 to 2024/25 are not sufficiently firm as to allow for a balanced budget to be set. Further opportunities for improving income and funding, plus greater efficiencies, will need to be secured in the medium term which will be achieved by a focus on outcomes based commissioning and transformation.
19. That the above figures are based on a Band D equivalent tax base of 536,304 properties (see Appendix A, page 41 of the report).
20. That the Capital Strategy, which is presented as Annex 3 in Appendix A, sets out the long-term context in which capital expenditure and treasury management investment decisions are made by the Council and gives due consideration to both risk and reward and impact on the achievement of priority outcomes. It comprises a number of distinct, but inter-related, elements as follows:
 - Capital expenditure – this provides an overview of the governance process for approval and monitoring of capital expenditure, including the Council's policies on capitalisation, and an overview of its capital expenditure and financing plans.
 - Capital financing and borrowing – this provides a projection of the Council's capital financing requirement, how this will be funded and repaid, sets out the Council's borrowing strategy and explains how the Council will discharge its duty to make prudent revenue provision for the repayment of debt.
 - Treasury management investments – this explains the Council's approach to treasury management investment activities, including the

criteria for determining how and where funds will be invested to ensure that the principal sums are safeguarded from loss and that sufficient liquidity is maintained to ensure that funds are available when needed.

- Other investments – this provides an overview of the Council's intended approach to investment activities, including processes, due diligence and defines the Council's risk appetite in respect of these, including proportionality in respect of overall resources.

7. 2020/21 Financial Overview as at the Third Quarter Stage (FP/695/05/20)

The Cabinet received a report setting out the forecast financial position of Essex County Council's (ECC) revenue and capital budgets as at the third quarter stage of the 2020/21 financial year.

The Cabinet Member for Finance responded to questions from Councillors Mackrory and Henderson in relation to:

- The estimated reduction in council tax collection income;
- Unbudgeted Asylum income;
- The decision not to purchase a Storage Area Network (SAN);
- Whether the loss of income of £798,000 in relation to the Business Rates Pool was linked to the closure of businesses; and
- The closure of the Highways Reserve;

The Cabinet Member for Education and Skills responded to a question from Councillor Mackrory in relation to the lower than expected numbers seen in relation to high needs learners; further detail on this would be provided in writing.

The Cabinet Member for Infrastructure and Deputy Leader responded to a question from Councillor Young in relation to slippage against the Highways Maintenance Budget.

Resolved:

1. To draw down funds from reserves as follows:
 - i. £1.2m from the COVID Equalisation Reserve to the Customer, Communities, Culture and Corporate portfolio relating to Libraries and Registrars income losses not covered as part of the Government Income Loss Guarantee. (section 5.2.iii)
 - ii. £772,000 from the COVID Equalisation Reserve to the Health and Adult Social Care portfolio for additional costs relating to COVID-19 (section 5.9.iv)
 - iii. £142,000 from the Reserve for Future Capital Funding to the Deputy Leader and Infrastructure portfolio relating to the creation of a provision for potential Part 1 compensation claims from property owners where

the completion of major highways schemes has resulted in a negative impact to the value of their property due to factors such as noise or light pollution (section 5.3.iii)

- iv. £96,000 from the Recovery Reserve to the Leader RSSS portfolio relating to COVID-19 pandemic work undertaken by Communications and Marketing (section 5.15.ii)
 - v. £49,000 from the COVID Equalisation Reserve to the Customer, Communities, Culture and Corporate RSSS portfolio relating to additional staffing resources required in response to COVID-19 for the Wellbeing Team and the Service Centre (section 5.13.iii)
 - vi. £133,000 from the Transformation Reserve to the Customer, Communities, Culture and Corporate RSSS portfolio for redundancy costs associated with the new Occupational Health contract and a Union Representative (section 5.13.iii)
 - vii. £27,000 from the Transformation Reserve to the Economic Development portfolio relating to organisational design pension strain costs in Culture and Green Spaces (section 5.4.ii)
 - viii. £7,000 from the Transformation Reserve to Economic Development portfolio to fund a post for Viability Transformation. (sections 5.4.ii)
 - ix. £5,000 from the Community Initiatives Reserve to the Leader portfolio to fund Challenge Prize costs to date (section 5.10.ii)
2. To appropriate funds to reserves as follows:
- i. £11.1m to the Carry Forward Reserve from the following portfolios:
 - Health and Adult Social Care: £4.5m
 - Customer, Communities, Culture and Corporate Recharged Strategic Support Service (RSSS): £2.2m • Finance RSSS: £2m
 - Children and Families: £1.9m
 - Other Operating costs: £200,000
 - Performance, Business Planning and Partnerships RSSS: £94,000
 - Leader: £50,000
 - Customer, Communities, Culture and Corporate: £103,000
 - Leader RSSS: £47,000

to support delivery of the 2021/22 budget. Specific detail can be found in section 5.
 - ii. £10.2m to the COVID Equalisation Reserve from the Health and Adult Social Care portfolio due to lower demand levels than originally anticipated for COVID-19 funding originally approved in relation to alternative day care provision, funding recovered from Health for their COVID-19 cost liabilities and loss of income now lower than anticipated (section 5.9.iv)

- iii. £2.6m to the Collection Fund Risk Reserve from the Finance RSSS portfolio towards mitigating the forecast decrease in funding from council tax and business rates in future years (section 5.14.ii)
 - iv. £1.3m to the Technology Solutions Reserves from the Customer, Communities, Culture and Corporate RSSS portfolio to support the Corporate Services Programme (CSP) and device information technology in future years (section 5.13.iii)
 - v. £457,000 to the Transformation Reserve from the Health and Adult Social Care portfolio relating to the Adult Sustainability Programme and for use in 2021/22 (section 5.9.iv) vi. £200,000 to the Transformation Reserve from the Children and Families portfolio to return placements under spend for use in future years (section 5.1.iii)
3. To approve the following adjustments:
- i. Vire £1.2m to Customer Services within the Customer, Communities, Culture and Corporate RSSS portfolio from the following portfolios:
 - Customer, Communities, Culture and Corporate: £568,000
 - Health and Adult Social Care: £168,000
 - Customer, Communities, Culture and Corporate RSSS (other policy lines): £151,000 • Finance RSSS: £141,000
 - Leader: £62,000
 - Performance, Business Planning and Partnerships RSSS: £40,000
 - Leader RSSS: £28,000

relating to the realigning of under spends within the Corporate and Customer function. (sections 5.2.iii, 5.9.iv, 5.13.iii, 5.14.ii, 5.10.ii, 5.16.ii & 5.15.ii)
 - ii. Vire £70,000 from the Customer, Communities, Culture and Corporate portfolio to the Customer, Communities, Culture and Corporate RSSS portfolio (£48,000) and the Health and Adult Social Care portfolio (£22,000) to fund a webchat team. (sections 5.2.iii & 5.9.iv)
 - iii. Vire £1.2m from the Customer, Communities, Culture and Corporate RSSS portfolio to the Finance portfolio to mitigate the unachievable income target for the Commercial programme due to the economic climate. (section 5.8.ii & 5.13.iii)
 - iv. Vire £33,000 from Customer, Communities, Culture and Corporate portfolio to Leader portfolio relating to funding of a Trading Standards post. (section 5.2.iii & 5.10.ii)
 - v. Adjust the profile of spend of the Future Library Services Strategy 2019-2024 as originally set out and approved in FP/461/06/19 to £1.5m

in 2021/22 and £1.2m in 2022/23 in order to reflect the current anticipated spend.

- vi. To create a new COVID Equalisation Reserve to set aside funding received from government for exceptional one-off costs related to the COVID-19 pandemic. Funding will be placed here until decisions are made on its utilisation. This reserve will also be used for where funding is returned to reserves where COVID-19 costs have been lower than originally anticipated for decisions taken (section 9.3)
- vii. To create a new Children's Transformation Reserve to set aside resources to support transformation capacity to deliver the Children's Sustainability programme. (section 9.3)
- viii. To create a new Adults Transformation Reserve to set aside resources to support transformation capacity to deliver ongoing future sustainability work. (section 9.3)
- ix. To create a new Adults Risk Reserve to set aside resources to help manage commercial price pressures that may arise from meeting cost of care. (section 9.3)
- x. To close the Highways Reserve and transfer the residual balance of £5m to the Service Improvement Reserve (section 9.4)
- xi. Transfer £16.4m, consisting of part of the third tranche (£4.7m) and all of the fourth tranche (£11.8m) of COVID emergency funding, to the COVID Equalisation Reserve (see 2.3.vi above) in order to support the Council's ongoing response to and recovery from the COVID-19 impact
- xii. To return supplementary funding of £2.2m for supporting businesses to the General Balance, following the receipt of Contain Outbreak Management Funding specific grant which can now be applied to provide this support instead.
- xiii. To amend the capital budget as shown in Appendices C (i) and C (ii) which allows for capital slippage of £19.5m, capital budget additions of £2.2m, capital budget reductions of £2.5m and advanced works of £3m (see section 7.2).

8. **Semi-Independent Accommodation and Support: Decision to Recommission a Framework from October 2021 (FP/842/10/20)**

The Cabinet received a report setting out a recommendation to commission a framework agreement to provide Semi-Independent Accommodation to defined cohorts of young people and families, commencing in October 2021 for a period of 4 years, including the opportunity to re-open the framework to new entrants after a period of 2 years.

The Cabinet Member for Children and Families responded to a question from Councillor Henderson regarding the monitoring arrangements that were in place for the placements and support for young people; a fuller answer would be provided in writing.

Resolved:

1. That the Council procures a framework agreement for the provision of SIA in four Lots for the following cohorts:
 - Lot A - SIA and support for eligible and relevant young people aged 16 and 17.
 - Lot B - SIA and support for Unaccompanied Asylum-Seeking Children (UASC) aged 16 and 17, including initial age assessment where required.
 - Lot C - Accommodation for families and young people 18+ with no recourse to public funds (NRPF) where the Council has a duty to provide them with accommodation.
 - Lot D - SIA and support for eligible and relevant young people aged 16 and 17, who have complex needs that require extended, intensive support and supervision.
 2. That the procurement is carried out using a single-stage, open tender process via the Council's e-sourcing portal.
 3. That the high-level evaluation criteria for the procurement will be 60% for quality and 40% for price and agree that the Executive Director, Children and Families is authorised to approve the detailed evaluation criteria sitting below this.
9. **Recommissioning of the Emotional Wellbeing and Mental Health Services for children and young people (FP/852/10/20)**

Cabinet received a report advising that the provision of services for Children and Young People's Emotional Wellbeing and Mental Health was a joint responsibility of local authorities and the NHS. Since 2015, the Emotional Wellbeing and Mental Health Service (EWMHS) had been commissioned collaboratively by Essex County Council, Southend-on-Sea Borough Council, Thurrock Council and NHS partners as an integrated service. The report proposed that ECC continued to work in a collaborative way to commission an integrated service when the existing contract expires in January 2022.

The Cabinet Member for Health and Adult Social Care responded to questions from Councillors Henderson and Mackrory in relation to the times between assessment and treatment, agreeing also to provide the data on this matter to Councillor Henderson in writing, and the total forecast budget for the new service.

Resolved:

1. To work with Southend-on-Sea Borough Council, Thurrock Council and the seven Clinical Commissioning Groups in Greater Essex (the Collaborative) to scope and re-procure an integrated service for child and adolescent mental health services in Essex.
2. To participate in a procurement exercise, led by West Essex CCG, to determine the successful provider for the child and adolescent mental health service for an integrated model from 2022.
3. To agree that the Cabinet Member for Health and Social Care in consultation with the Cabinet Member for Children and Families is authorised to:
 1. Agree the procurement process to be followed including the evaluation criteria to be applied;
 2. Agree the terms of the contract with the successful provider following completion of the procurement process; and
 3. Agree to the terms of the collaboration agreement with the Collaborative.

10. Education Travel Contract Extensions and Awards 2021 (FP/893/11/20)

Cabinet received a report seeking the extension of existing contracts and the procurement of new education transport contracts which along with the provision of travel allowance, hired transport and public transport tickets enabled the Council to fulfil its statutory and policy-based obligations to provide transport to school for children meeting the eligibility criteria.

The Cabinet Member for Education and Skills provided an answer to the question submitted by a member of the public under item no. 3 of the Agenda, advising that it was not possible to award an extension to all contracts as a number of them had already expired or were subject to other factors that would not allow such an extension.

The Cabinet Member for Education and Skills also responded to a question from Councillor Mackrory in relation to the energy efficient and eco-friendly credentials of the vehicles used.

Resolved:

1. That the Director, Highways and Transportation, is authorised to extend any education transport contracts which expire in July 2021 for a one year period where extension is permitted under the terms of the contract and where he considers this to be in the Council's best interests.
2. That the Director, Highways and Transportation, is authorised to procure new contracts via the Council's existing dynamic purchasing system where extension is not permitted or where extension is not considered to be in

the Council's best interests. Any new such contract is to be for a period determined by the Director, Highways and Transportation initially for a maximum of three years and on terms which give the Council the right to extend for up to a further 3 years.

3. That the Director, Highways and Transportation, is authorised to approve the entering into of such contracts following completion of the procurement process subject to sufficient funding being available.

11. Award of Residual Waste Service Orders (FP/851/10/20)

Cabinet received a report seeking approval to award sixteen service orders to five waste disposal providers following a mini-competition conducted pursuant to the Residual Waste Disposal Framework (0538).

The Cabinet Member for Environment and Climate Change responded to questions from Councillor Mackrory regarding the disposal method used, and the impact of there being no bids for Lot 5.

Resolved:

To award service orders to the waste disposal providers detailed in paragraph 3.5 of the report for a period of 18 months commencing on 1 April 2021.

12. Decisions taken by or in consultation with Cabinet Members (FP/906/12/20)

The decisions taken by or in consultation with Cabinet Members since the last meeting of the Cabinet were noted.

13. Date of next meeting

It was noted that the next meeting of the Cabinet would take place online at 10am on Tuesday 16 February 2021.

14. Urgent Business

There was no urgent business.

Exclusion of the Press and Public

Resolved:

That the press and public be excluded from the meeting during consideration of the remaining item of business on the grounds that it involves the likely disclosure of exempt information as specified in paragraph 3 of Schedule 12A of the Local Government Act 1972 – information relating to the financial or business affairs of any particular person).

15. **Confidential Appendix: A127/A130 Fairglen Interchange - Decision to acquire land by Compulsory Purchase (FP/875/11/20)**
(Press and public excluded)

The Cabinet considered the Confidential Appendix to report FP/875/11/20 which contained information exempt from publication referred to in that report and in decisions taken earlier in the meeting (minute 5 above refers).

16. **Confidential Appendix: Award of Residual Waste Service Orders (FP/851/10/20)**
(Press and public excluded)

The Cabinet considered the Confidential Appendix to report FP/851/10/20 which contained information exempt from publication referred to in that report and in decisions taken earlier in the meeting (minute 11 above refers).

17. **Urgent Exempt Business**

There was no urgent exempt business.

There being no further business, the meeting closed at 11.30am.

Forward Plan reference number: FP/860/11/20

Report title: Future Temporary Resourcing Services	
Report to: Cabinet	
Report author: Cllr Susan Barker, Cabinet Member for Customer, Communities, Culture and Corporate Services	
Date: 16 February 2021	For: Decision
Enquiries to: Pam Parkes, Director, Organisational Development and People and Service Transformation email pam.parkes@essex.gov.uk or Graeme Lennon, Head of People Operations email Graeme.lennon@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 To seek agreement to change the Essex County Council (ECC) approach to temporary worker recruitment by bringing all temporary resourcing activity, including management, in house and to procure a separate payroll service for temporary staff and a dynamic purchasing system for the provision of agency staff.
- 1.2 To seek funding from the Transformation Reserve to fund temporary worker attraction activity and to deliver the in-house temporary resourcing service.

2. Recommendations

- 2.1 Agree to bring temporary staff resourcing activity and management in-house.
- 2.2 Agree to go out to the market to procure a payroll and time-sheet service for management of ECC temporary staff and to agree that the Cabinet Member for Customer, Communities, Culture and Corporate Services in consultation with the Director Organisation, development and People and Service Transformation to:
 - (a) approve the procurement approach and strategy, procurement process and evaluation model; and
 - (b) following the completion of a compliant procurement process, to approve the winning bidder(s) and award the contract.
- 2.3 Agree to undertake a competitive procurement of a Dynamic Purchasing System (DPS) for recruitment of temporary staff for hard to fill posts for a period of 5 years, with an option to extend for 5 years and to agree that the Cabinet Member for Customer, Communities, Culture and Corporate Services in consultation with Director Organisation, development and People and Service Transformation will approve the procurement approach and strategy, procurement process and evaluation model.

- 2.4 Agree that the £65,000 for temporary staff attraction activity, including the cost of national job board posting and LinkedIn Job postings, to be funded from the Transformation Reserve in Year 1 and built into future years as part of the Medium-Term Resource Strategy.

3. Summary of issue

Current Position

- 3.1 Temporary recruitment activity for ECC has been outsourced to Matrix Supply Chain Management since November 2019. This contract allows ECC to reach a number of recruitment agencies via Matrix SCM as well as to engage temporary workers that ECC are able to source directly. Prior to this, temporary worker recruitment was delivered to Essex County Council (ECC) by Capita Resourcing. Temporary worker recruitment services have been delivered by an external service provider for in excess of a 10 years.
- 3.2 The purpose of our proposed model is so that ECC can prioritise the hiring of temporary staff directly without the use of third party recruitment agencies. This offers financial savings but also allows ECC control of resourcing and the ownership of talent we source to allow us to use this talent in more effective ways without the restrictions put in place by third party agencies (such as being able to make staff permanent with no fees to be paid) and to develop our own talent pools.
- 3.3 In 2018 the Cabinet agreed to insource permanent recruitment activity and to undertake a short-term procurement of a supplier for temporary staff whilst a long-term solution to the sourcing of temporary staff was considered. Matrix SCM were appointed following a Cabinet decision in 2018 (FP/160/05/18). The Matrix SCM contract expires in November 2021 and while there is an option to extend, the recommendation in this report is that we should not do so.
- 3.4 Under the terms of the current Matrix SCM contract, Matrix SCM act as an intermediary and release ECC temporary vacancies to a preferred list of agency suppliers. This allows ECC when needed to advertise to multiple agencies at once. This current contract also means Matrix SCM provide time-sheet submission and approval technology which is fully integrated with ECC finance and invoicing systems. The current contract also includes compliance checking for agency provided workers and management Information reporting. In addition to the Matrix SCM contract, the ECC resourcing team also attract temporary workers directly where possible, using only the time sheeting/payroll element of the services offered by Matrix SCM.
- 3.5 ECC have on average 550 temporary workers engaged at any one time with around 300 – 400 temporary workers actively submitting timesheets in any one week. In the last year, ECC engaged 293 temporary workers and of these ECC directly sourced 73.26% of these workers, meaning they are not represented by a recruitment agency and we utilise the payroll and time sheeting element of the

Matrix SRM contract to pay these workers who are often referred to as 'direct' temporary workers.

- 3.6 Since the 2018 Cabinet Decision, ECC officers have undertaken a market review of models of engaging temporary workers such as full managed service, neutral vend (appointing an intermediary to source workers on behalf of ECC) and directly controlled model. As part of the review of options, ECC officers spoke with other organisations, including local authorities, and market leading recruitment firms to understand the market offer.
- 3.7 Work was also undertaken to understand the key requirements for a temporary work recruitment service of ECC's hiring managers. It was concluded that any new approach to temporary worker recruitment would need to reflect:
- a. A pro-active, flexible service which can adapt to future needs
 - b. The ability to utilise specialist agencies when required in hard to fill areas such as qualified Social Workers and specialist skills e.g. planning.
 - c. The ability to access temporary talent quickly
 - d. Temporary talent which meets all required safeguarding legislation (both legally and in respect of governing bodies such as DfE)
 - e. Establishing better routes to secure the right talent at the right time e.g. direct advertising and referrals of known talent
 - f. The ability to attract talent on a more commercial basis such as statement of work and true output-based arrangements
 - g. Value for money in respect of fees
 - h. The opportunity to convert temporary talent to permanent hires with no fees applied by agency providers
- 3.8 Three main options were considered for a new approach to Temporary Worker recruitment. These are as follows:
- 3.8.1 **Option 1** Fully outsource temporary recruitment to a third party provider who will seek to fill requirements – this is an established market option where all temporary roles are managed and filled by a third-party provider on behalf of ECC. This is difficult as ECC has a diverse range of requirements.
- 3.8.2 **Option 2** Outsource temporary recruitment to a third party provider who will act as an intermediary and release requirements to third party recruitment agencies – this option is similar to the current model and allows ECC to source temporary workers via a third party provider.
- 3.8.3 **Option 3** ECC directly sources temporary workers itself, in house and procures a timesheet and payroll provider for temporary workers engaged. It is unlikely, however that ECC would be able to meet all its requirements via direct arrangements. It would therefore need to supplement its own endeavours with direct relationships with specialist agencies for hard to fill requirements. We would do this via a 'dynamic purchasing system'. This option would allow ECC direct control over temporary resourcing, reduce costs and would allow ECC to be a leader in implementing an emerging model for delivery. This model also allows ECC much greater flexibility in developing the service further in future

models. It also allows ECC to manage directly its own supply chain of agency for known hard to fill roles.

3.9 The recommended option is option 3 Each of the options set out above are fully detailed and appraised in paragraph 4 below. The Proposed model will meet the key requirements identified and set out in 3.7 above and would offer the following to ECC:

- The ECC Resourcing team will receive and manage newly raised temporary staffing requests from the hiring community.
- A 'talent pool' first approach to identify appropriate candidates who are already engaged with ECC, vetted and ready to work to drive faster time to hire of temporary resource. This means we will always consider temporary workers who have registered in our talent pools before considering the use of agencies.
- A direct advertising focus to attract temporary workers with no agency third party involvement
- Candidate shortlisting, meaning that resourcing will only present application for the hiring managers review if they meet the basic criteria of the role.
- Facilitation of selection processes including where needed interview arrangements
- Offer management
- Candidate and hiring manager support for the duration of the candidate's assignment with ECC
- Business Insight analysis in partnership with functional stakeholders to drive effective and compliant management of a large temporary workforce.

3.10 It will not be necessary to recruit new staff to deliver to proposed approach. The service would be delivered by the existing Resourcing Support team and the team would be trained to deliver the proposed model through training and development. It was previously agreed when the current model was approved that it would be short term whilst more innovate options were explored. As such the current team was built with the ability to adapt to future models in mind and be repurposed without the need for further resource:

- Since inception the end focus has been a move towards a direct hire model. As such we have in our first year of operational delivery continually developed the existing team members to be ready for such a change e.g. training on direct hire, relevant legislation and increasing measurements of securing new temporary resource without the use of third-party agency.
- As part of a separate project talent pool technology has been identified and procured which will allow the team to manage and communicate with those seeking temporary work at ECC directly without the need for third party support. This essentially replaces the 'keep warm' communication activity previously done by third parties meaning the team can do this locally in an efficient manner.
- Talent pool technology allows ECC to advertise temporary opportunities to the direct market, to communicate opportunities to our talent pool and should we wish to, to directly release opportunities to suppliers as part of the DPS solution. The efficiencies offered by this new technology mean that the team can deliver

these improvements without the need for more resource but by repurposing to a model underpinned by improved technology.

- Both the talent pool technology and the new recruitment technology highlighted above will be fully integrated to one and other meaning hiring managers will remain in existing ECC corporate systems throughout the temporary recruitment process.

3.11 The recommended model will require ECC to procure a payroll and time sheet system to manage the temporary workers the current time sheets and payroll are managed on behalf of ECC by Matrix SCM. It will also require ECC to have pool of talent to call on and recruit from. It is proposed that this is via a Dynamic Purchasing system (DPS)

Payroll and Time Sheets

3.12 ECC managers have decided that they do not wish to use its existing payroll system for temporary workers to maintain clear separation between ECC and temporary workers that ECC do not employ. It is important to keep temporary works separate to ensure that they do not receive employment rights although many other employers are able to manage this on one system.

3.13 The payroll system will be only for successfully hired temporary workers and will comprise a time sheeting system for time submission and approval and a payroll provision to pay temporary workers and a way for them to charge ECC. It is proposed that ECC will procure this system on the basis of a 'per transaction' for each approved timesheet for this service. The Council is already in effect paying this fee as part of the sum paid to the current contractor as part of the current managed service.

3.14 The payroll only service will support

- A way for workers to submit a weekly timesheet for work undertaken.
- A facility for recording working time via electronic recording, allowing for submission of hourly and daily rates.
- The submission of outputs-based agreements (statement of work) arrangements, which will clarify the lines between professional interim service provision and consultancy arrangements made via procurement routes where payment is made based on agreed milestone outputs rather than hours or days worked.
- The submission of time on a 'pay per assessment' route to support Social Care models where payments are made based on completed assessments rather than hours or days worked.
- The submission of time for different payment arrangements such as PAYE, via limited companies, 'umbrella companies' and direct contracts/
- Be fully integrated into ECC's systems to recharge costs to the correct budget.
- The payroll of all worker types mentioned with the legally required deduction made and paid to HMRC.

- 3.15 Should the proposed option be agreed ECC will need procure and manage a supply chain of specialist agencies. Two options have been considered for this including framework and a Dynamic Purchasing System (DPS) and they are further detailed in the Options section of this report. The recommended option is to create a DPS.
- 3.16 A DPS is similar to a framework for the supply of services. It is an electronic system which suppliers can join at any time provided that they prequalify. A DPS would give ECC access to a pool of pre-qualified suppliers and for ECC to add new suppliers. It will be necessary for ECC to run a procurement process compliant with the Public Contract Regulations 2015 to procure a payroll and time sheet system and also to set up a DPS. The procurement approach, process and documents will be taken forward once approval has been given to procure with the proposed option. The separate decision will be taken to approve the procurement approach, process and documents and in the case of the payroll and time sheet system, award of the contracts following the procurement process.
- 3.17 ECC will be one of the first local authorities to implement the proposed insourced model if approved and will be one of the first to deliver meet its workforce strategy commitment.
- 3.18 The proposed model will allow ECC control over the 'social value' aspect of temporary resourcing and the Council to develop a pool of talent which will primarily be advertised in Essex. We will also be able to undertake development activity by targeting people from areas of deprivation to ensure we continue to support economic growth within the County. All appointments will be made on merit.
- 3.19 If implemented, there would be no operational impact or change to the hiring manager operational experience of recruiting temporary workers as in the current operational process Hiring Managers do not interact with the current provider or agencies. They work via the ECC resourcing team. The benefits will be seen in both value for money and quality of talent hired directly.
- 3.20 There is an opportunity for ECC to commercialise temporary worker services in the future should it wish to do so. ECC could consider providing temporary worker solutions to other organisations and generate income. Any plans for selling services to other organisations would be the subject of a separate decision.

4 Options

Option 1 ECC to procure a managed service model - Not recommended

- 4.1 Option 1 would involve one procurement which would see ECC outsource the entire provision of temporary resourcing to a third-party organisation. The benefits of this approach are that only one procurement would be needed and very little internal resource would be required to make the contract. However, this would be inconsistent with the decision taken in 2018 to move away from

this model and it would not give ECC any control over the candidate and hiring manager experience. It also limits ECC's desire to control its brand, be innovative in resourcing and deliver service excellence. There would also be no opportunity for the direct hire of temporary workers and the model would be more expensive than the recommended option. For these reasons, option one is not recommended as it would be a backwards step for ECC and a more costly solution.

Option 2: ECC to extend the current arrangements for a further year until November 2022.

- 4.2 This model is successfully operating has delivered savings. Only limited work would be required to agree the extension. The current arrangements allow ECC to both direct temporary worker hires and access the agency market. However, this option would only delay the requirement for a longer-term solution and the need to re-visit our temporary worker services model. It is also not consistent with the previous decision of Cabinet and does not deliver any further opportunities for savings. It also limits ECC's ability to control its brand, be innovative in resourcing and deliver service excellence. This is not the recommended option as it does not give ECC the opportunity for innovation, savings and future commercialisation we are seeking.

Option 3: ECC to act as the managed service, directly procuring a supply chain of specialist agencies and procuring a payroll solution for the temporary workforce – **Recommended Option**

- 4.3 This option will result in ECC delivering all temporary resourcing. The Council would develop its own contacts with temporary workers and contract with them directly, only using third party agencies for hard to fill vacancies. This gives full control of the brand and attraction to ECC and provided an opportunity for savings. It would be an innovative model in the market and provide future opportunities for savings. It will enable ECC to retain a specialist supply chain for hard to fill and specialist roles. The disadvantages are that ECC will have limited experience to draw upon and will need to develop a way of directly finding temporary workers, procurements will be required and, where agencies are used, ECC will need to directly manage agency supplier contracts.
- 4.4 The procurement issues can be mitigated by creating a Dynamic Purchasing System (DPS) for specialist agencies with a call of process for each recruitment which requires agencies to submit suitable CVs. This option would also allow ECC to eliminate reliance on a third-party provider and achieve cost savings. The additional benefits of using a DPS include the ability to keep it in place for up to 10 years and to approve new suppliers at any time during the term. A DPS can also provide a streamlined route to market for both the buyer and suppliers which should encourage participation from the market. Resource is required to manage a DP's throughout the term to approve new suppliers within required timeframes and to complete electronic call offs.
- 4.5 ECC officers have considered a Framework rather than a DPS for specialist agencies. This would allow ECC to eliminate reliance on a third-party provider

and achieve cost savings. However, a DPS is a better option for ECC as creation of a framework requires significant resource and can only be in place for a maximum of 4 years. New suppliers cannot be added to a framework during the term which is limiting. Suppliers may be reluctant to complete the timely process required to join the framework.

- 4.6 Option 3 is the recommended option as it builds on the success of the in-house delivery of permanent recruitment services, offers the opportunity for commercialisation, savings and positions ECC as a market leader in this field.

5. Issues for consideration

5.1 Financial implications

- 5.1.1 In November 2019, the service migrated the recruitment of temporary workers from an externally provided managed service model to outsourcing temporary recruitment to a third-party provider, Matrix Supply Chain Management, who acted as an intermediary and release requirements to third party recruitment agencies.

- 5.1.2 The financial impacts of the three options are set-out below, analysing overall past and estimated future expenditure on temporary workers, along with the average supplier mark-up for each option.

- 5.1.3 During 2020/21, it is estimated that £14.5m will be spent on temporary workers. This is significantly lower than the spend on temporary workers in previous financial years however the organisation still pays a sizeable mark-up on these employees, particularly for agency workers. Staff budgets are managed by each of the functions; they do not sit centrally. The budget for the resourcing team is held in the function, 'Organisation Development & People'.

- 5.1.4 Each service is provided with the budget to fund their permanent establishment. If a service needs to hire a temporary worker, they need to ensure there is enough money in their budget so that the service does not overspend. If a temporary employee is significantly more expensive than a permanent member of staff, this puts additional strain on the service's budget and available funds throughout the year, preventing them from hiring more employees or spending more to improve outcomes and achieve service deliverables.

- 5.1.5 Temporary employees can be more expensive than permanent members of staff for a variety of reasons, including the availability of that position in the workforce and their integral importance to the organisation hiring them. A key factor which can be influenced by the hiring organisation is the mark-up. This is charged by agencies and third parties for sourcing temporary employees and for the provision of other services, such as payroll. The 'mark-up' is the amount charged on top of what the employees are actually paid for their services. Reducing this mark-up gives budget holders the ability to spend more resource on other areas of their service.

5.1.6 Expenditure across the organisation on the temporary workforce in 2020/21 is expected to be as follows:

Table 1:

Function	Total Charge Apr-20 to Oct-20 (£'000)	YTG Run Rate (£'000)	FY Estimate (£'000)
Adult Social Care	3,037	2,169	5,207
Children & families	1,066	762	1,828
Corporate & Customer Services	511	365	875
Education	474	339	813
Finance & Technology	1,241	886	2,128
Organisation Development & People	1,110	793	1,903
Place & Public Health	907	648	1,555
Traded Services	119	85	204
External Bodies	11	8	19
Grand Total	8,477	6,055	14,532

5.1.7 There are a number of variables which make it difficult to compare results year-on-year. The overall number of temporary workers employed by Essex County Council will have an impact on the overall cost – years with a higher number of temporary workers will obviously cost more. As an alternative, the models are evaluated using information provided on the supplier's mark-up for temporary workers. The supplier mark-up is the percentage suppliers charge ECC for sourcing agency staff and providing additional services, such as payroll.

Summary of Options:

5.1.8 The estimated annual impact of the three proposed options is summarised in the tables below.

Table 2: Estimated Annual Cost of the Options (Years 1 to 4):

Options	Total Pay before Mark-Up 2020/21 (est.) £'000	YEAR 1: Total Charge incl. Mark-Up £'000	YEAR 2: Total Charge incl. Mark-Up £'000	YEAR 3: Total Charge incl. Mark-Up £'000	YEAR 4: Total Charge incl. Mark-Up £'000
ECC to Extend the Current Arrangements with Matrix Supply Chain Management	£13,653	£14,532	£14,532	£14,532	£14,532
ECC to Procure a Managed Service Model	£13,653	£15,197	£15,197	£15,197	£15,197
Recommended - ECC to Act as the Managed Service (Procure Agencies via DPS)	£13,653	£14,461	£14,373	£14,288	£14,273

Table 3: Potential (Net Savings)/ Cost Pressures of each Option in Comparison with the Current Arrangements (Years 1 to 4):

Options	YEAR 1: Cost Pressure/ (Savings) £'000	YEAR 2: Cost Pressure/ (Savings) £'000	YEAR 3: Cost Pressure/ (Savings) £'000	YEAR 4: Cost Pressure/ (Savings) £'000
ECC to Extend the Current Arrangements with Matrix Supply Chain Management	£0	£0	£0	£0
ECC to Procure a Managed Service Model	£665	£665	£665	£665
Recommended - ECC to Act as the Managed Service (Procure Agencies via DPS)	(£71)	(£159)	(£244)	(£259)

5.1.9 By Year 4, it is estimated the annual savings across the organisation and services who employ temporary workers will be **£259,000**. The savings will be realised across all functions in the organisation who have employed temporary workers. Provided that requirements and the cost of temporary workers at Essex County Council remains the same, the £259,000 annual savings will continue to be realised. The proposed option requires £65,000 of attraction costs, as discussed below, over a period of three financial years. These costs have been included in the figures estimated above. It is proposed that these one-off costs be funded from the transformation reserve. For a detailed analysis of options one and two in the above summary table, please see the financial appendix.

Recommended Option: ECC to act as the managed service, directly procuring a supply chain of specialist agencies via DPS and procuring a payroll solution for our temporary workforce. This will mean ECC will have effectively in-housed temporary resourcing.

5.1.10 In this option, Essex County Council would become the managed service. ECC will develop and manage its own Dynamic Purchasing System (DPS) to enable the council to continue providing a similar service to what is offered by the current third party. Essex would inherit the existing direct hires from Matrix SCM and move these employees to an organisation who would only need to provide an external payroll service for ECC's temporary workforce. Some existing agency workers may migrate to direct hire status depending on their length of service. If not, they would remain with their agency and their agency would join ECC's DPS supply chain.

5.1.11 For those who remain agency staff, the cost to ECC is likely to reduce slightly. Matrix SCM currently charge a 20p per hour fee for all agency employees. For direct hires, the service estimates a reduction in the mark-up for these employees as ECC will only need a supplier to provide payroll services for these workers.

5.1.12 The soft-market testing unfortunately did not return many bids to enable robust benchmarking of prices. The service approached ECC's current supplier, Matrix

SCM, who suggested they would only charge between 2% and 3% for a payroll-only service. Without further market testing, it is difficult to estimate the benefits of this option with complete accuracy, but it is very unlikely to be more expensive than the current model with Matrix SCM.

5.1.13 The following table uses the above assumptions to estimate 2020/21 costs and to compare options two (current arrangement) and three (recommended option). As mentioned previously, the current Matrix charge of 20p per hour would no longer apply. With regards to the supplier mark-up for directly employed temporary staff, the median percentage from Matrix's response, 2.5%, has been applied to analyse potential costs. The savings potential resulting from a reduction in the mark-up for direct hire employees, in comparison to the current 3.38% average, shown in table 4 in the appendix. There is potential for the supplier mark-up on agency staff to reduce further in this model, however it is unclear at this stage how much of the % mark-up goes to the agencies themselves and how much is taken by Matrix.

5.1.14 of the combined annual savings from a reduction in the direct hire mark-up and no longer paying the 20p per hour agency charge is estimated to be **£101,000** across all functions, although as stated this is a rough estimate as the mark-up for Matrix and other suppliers in the market for being a 'payroll-only' partner has/ not been explored in great detail.

Table 4:

	£'000
Direct Hire – Reduction in Mark-Up	62
Reduction in Hourly Agency Fee (20p per hour)	39
Potential Savings	101

* A detailed breakdown of the potential savings can be found in the financial appendix.

Additional Investment Required:

5.1.15 The service has estimated total investment costs of £65,000 to be split over three financial years, as displayed in the table below. It is proposed that this will be funded from the transformation reserve in year 1 and built into future years as part of the medium-term resource strategy.

Table 5:

Service Delivery Investments	Year 1 (£'000)	Year 2 (£'000)	Year 3 (£'000)
Attraction	30	20	15

This investment should enable the service to reach-out to and attract further talent, reducing the need for agencies. The increasing percentage of temporary workers that are 'direct hires' rather than 'agency staff' should reduce the overall mark-up paid on temporary employees and reduce the overall cost to the services who employ temporary workers.

The existing split of the temporary workforce at ECC is 70% direct hire and 30% agency. The service believes that over the next three years, with the additional attraction work, 80% of temporary employees will be direct hires.

Table 6 details how much could potentially be saved if 75% of the organisation's existing temporary workforce were 'direct hires' by year 2, and if 80% were 'direct hires' by year 3. This analysis assumes the existing level of temporary worker activity continues. In reality, use of temporary workers fluctuates each year, depending on service requirements:

Table 6:

Temp Worker – Source	Total Mark-up Year 1 (£'000)	Total Mark-up Year 2 (£'000)	Total Mark-up Year 3 (£'000)
Agency	602	502	401
Direct	175	197	218
Grand Total	777	699	619
Potential Savings		78	158

A more in-depth look at this potential savings can be found in the financial appendix.

The estimated net savings potential from the recommended option over the next three years is detailed in the table below. Any savings realised will be across all functions in the organisation who have employed temporary workers. Although the overall savings can be estimated, the amount attributed across the organisation cannot be identified against specific services with accuracy as the use of temporary staff varies year-on-year. Therefore, the services will simply benefit from marginally lower costs when temporary staff are required:

Table 7:

	Year 1 (£'000)	Year 2 (£'000)	Year 3 (£'000)	Year 4 (£'000)
Direct Hire – Reduction in Mark-Up	62	62	62	62
Reduction in Hourly Agency Fee (20p per hour)	39	39	39	39
Increasing the Percentage of Direct Hires	0	78	158	158

Attraction Costs	(30)	(20)	(15)	0
Net Potential Savings (recommended option)	71	159	244	259

5.1.16 According to the service, there will be no additional resources required to manage the new model. Setting-up a DPS and managing agencies initially, may be time-consuming during the early months, but the service believes managing this demand should become much easier after that.

5.1.17 Procurement will be involved with the set-up and establishment of this model. After that the resourcing team will manage the day-to-day aspects of the business. This will likely require a 'refocus' of the temporary recruitment team's activities to managing the suppliers/agencies rather than Matrix – however priorities will remain the same and this should not put additional strain on service provision.

5.2 Legal implications

5.2.1 ECC are a contracting Authority for the purposes of the Public Contract regulations 2015 and are required to run compliant procurement processes when purchasing goods and services.

5.2.2 ECC will need to undertake a procurement exercise in accordance with the provisions set out in the Public Contracts Regulations 2015 and ECC's procurement policy and procedures in order to set up the DPS and also to purchase the Payroll system. The detail of these procurements along with the evaluation methodology and contract terms will be subject to a separate decision by the Cabinet Member.

5.1.3 There is no legal requirement to have a separate payroll system. The current payroll system is used for the pay arrangements of many people who are not employees, such as councillors, independent members and various statutory roles. There may however be other operational requirements to have a separate payroll system.

5.1.4 The Council already has ways of recruiting permanent or fixed term employees. This would be used for recruiting temporary workers who would not legally be employees, either because they work through an agency or because the nature of the work does not the legal test for employees. People engaged in this way usually have rights as 'workers' but not full employment rights. This way of meeting the council's need for work enables us to manage peaks of work, provide cover for temporary absences, resource short term projects or providing cover pending permanent recruitment.

6. Equality and Diversity implications

6.1 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.

6.2 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).

6.3 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. All temporary requirements will be advertised openly by ECC and the application process will be open and transparent. All appointments are made on merit but ECC will also honour schemes already in place to offer Care Leaver, those with a disability and veterans a guaranteed interview.

7. List of appendices

Financial appendix
Equality Impact Assessment

8. List of Background papers

None.

Future Temporary Resourcing Service: Financial Appendix

Option 1: ECC to procure a managed service model. This is one overall procurement which would see ECC outsource the entire provision of temporary resourcing to a third-party organisation.

This model was used prior to November 2019. The following tables use historical information from financial years 2017/18 and 2018/19 to show the potential cost to ECC if this option were to be chosen. It is clear there were some additional agency requirements in 2018/19 that were slightly skewing the overall cost of temporary workers; However, table 1 shows the average mark-up for these workers, which was 10.30% in 2017/18 and 12.32% in 2018/19. The average mark-up (11.31%) has then been applied to the forecast current year (2020/21) temporary worker activity.

As the current arrangements were introduced mid-way through the 2019/20 financial year, this has been excluded from the analysis.

The costs and supplier charges for these financial years are significantly higher than the costs and supplier charges in the current year, which is the primary reason why this option is not recommended:

Table 1:

Financial Year	Sum of Total Pay £'000	Charge to ECC £'000	Average Supplier Mark-up £'000
Financial Year 2017/18	15,682	17,297	10.30%
Financial Year 2018/19	16,620	18,668	12.32%
Average Spend (2017/18 & 2018/19)	16,151	17,983	11.31%
<i>Financial Year 2020/21 (Est.)</i>	13,654	15,198	11.31%

Option 2: ECC to extend the current arrangements for a further 12-month period, taking the end of the current arrangement to Nov 23rd, 2022.

This option would see Essex County Council continue with the existing arrangements, whereby the organisation outsources temporary recruitment to a 3rd party provider who will act as an intermediary and release requirements to 3rd party recruitment agencies. Where ECC are successful in recruiting temporary workers via internal means, such as online advertisements, the 3rd

party, Matrix, provide payroll services for these employees. The typical mark-up for this service is currently between 3.1% and 5% per employee.

Where ECC is unable to recruit temps directly, Matrix distribute this to ECC's chain of recruitment suppliers who then bid to provide the required staff member.

The latter option typically includes a larger charge to ECC: Up to 11% for some agency workers and potentially more for senior members of staff. This year to date, ECC directly hires approximately 70% of its temporary workforce, which is why this option has a greater financial benefit in comparison with the first option.

The tables below show the year-to-date cost of temporary workers and the full year estimated cost to ECC. All existing temporary contracts did not transition over to the current arrangements until February 2020, which is why it is not possible to analyse the costs prior to the 2020/21 financial year.

Although the number and cost of temporary workers have reduced in the current financial year, it is clear from the supplier mark-up that there are cost benefits associated with this model. The average agency mark-up, 9.66%, is still lower than the mark-up in 2017/18 and 2018/19. The major cost reduction is related to direct hires, where the mark-up is significantly lower at 3.38%.

Table 2: The Current 'As is' full year estimated cost, showing the mark-up and the breakdown of costs between Agency and Direct Hire employees.

Temp Worker – Source	Sum of Total Pay (Apr – Oct) (£'000)	FY Estimate b/f Mark-Up (£'000)	Supplier Mark-up (Average %)	FY Estimate (£'000)
Agency	3,870	6,635	9.66%	7,276
Direct	4,094	7,019	3.38%	7,256
Grand Total	7,964	13,654	6.43%	14,532

Recommended Option: ECC to act as the managed service, directly procuring a supply chain of specialist agencies via DPS and procuring a payroll solution for our temporary workforce. This will mean ECC will have effectively in-housed temporary resourcing.

Additional Tables for Context:

Table 3: The full year expected Savings of the Recommended Option.

	£'000
Direct Hires Savings	62
Agency Savings	39
Total Savings	101

Table 4: The savings on the supplier mark-up for Direct Hire Employees.

	Sum of Total Pay (Apr – Oct) (£'000)	FY Estimate b/f Mark-Up (£'000)	Supplier Mark-up (Average %)	FY Estimate (£'000)
Direct (Option 2: Current Arrangements)	4,094	7,019	3.38%	7,256
Direct (Option 3: ECC to Act as the Managed Service)	4,094	7,019	2.50%	7,194
Savings				62

Table 5 summarises hours worked for all temporary workers between April and October 2020. A 20p per hour savings is assumed for agencies workers as ECC will no longer need to pay this to Matrix:

Table 5:

Temporary Worker Type	Hours Worked (Apr-Oct)	Savings (YTD) (£'000)	FY Hours Estimate	FY Savings Est. (£'000)
Agency	122,103	24	192,933	39

In addition to the savings detailed above, the service anticipates that the percentage of direct hire temporary workers will increase, resulting from the

service's investment to directly source temporary employees over the next three years.

The existing percentage split is approximately 70% direct hire and 30% agency staff. The service anticipates that this percentage will increase to 80% direct hire and 20% agency as a result of these attraction costs.

The model assumes the split will be achieved gradually over a three-year period. In year 1, there will be no change to the percentage split as the service will have only begun to spend money on improving ECC's talent pool. By year 2, the model assumes this has been successful and the proportional split will be 75% direct and 25% agency. And by year 3, the split will have moved to 80% direct and 20% agency.

The tables below show the positive financial impact of increasing the percentage of temporary workers that are hired directly. The model assumes the number of temporary workers and their estimated annual cost remains the same in future years:

Temp Worker – Source	% Temporary Workforce Year 1	Total Mark-up Year 1 (£'000)	Savings Year 1 (£'000)
Agency	30%	602	0
Direct	70%	175	0
Grand Total	100%	777	0

Temp Worker – Source	% Temporary Workforce Year 2	Total Mark-up Year 2 (£'000)	Savings Year 2 (£'000)
Agency	25%	502	100
Direct	75%	197	(22)
Grand Total	100%	699	78

Temp Worker – Source	% Temporary Workforce Year 3	Total Mark-up Year 3 (£'000)	Savings Year 3 (£'000)
Agency	20%	401	201
Direct	80%	218	(43)
Grand Total	100%	619	158

Forward Plan reference number: FP/918/12/20

Report title: Approval to place 2021/22 contractual task orders with Ringway Jacobs for values of £2m and over	
Report to: Cabinet	
Report author: Councillor Kevin Bentley, Deputy Leader and Cabinet Member for Infrastructure	
Date: 16 February 2021	For: Decision
Enquiries to: Andrew Cook, Director, Highways and Transportation andrew.cook@essex.gov.uk and Deana James, Business Planning Manager, Essex Highways Commissioning, email: deana.james2@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 The Council's highways contract with Ringway Jacobs Limited requires the Council to place orders for all work undertaken. Some task orders within this programme of work have a value in excess of £2m.
- 1.2 Although Council sets the highways budget as part of the annual budget, spending decisions on executive functions of over £5m should be taken by the Cabinet.
- 1.3 This report asks the **Cabinet** to approve the issue of those task orders likely to exceed £2m to Ringway Jacobs for the 2021/22 financial year.

2. Recommendations

- 2.1 Agree that the Director, Highways and Transportation may issue the task orders to Ringway Jacobs as outlined in **Table 1, Appendix 1** after taking legal advice about the form and content of the task orders.
- 2.2 Agree that the Leader, or Deputy Leader and Cabinet Member for Infrastructure, may change the work to be undertaken under the task orders.

3. Summary of issue

- 3.1 Essex County Council (ECC) is the local highway authority for Essex and as such it has many legal duties and powers with respect to the local highways network, including a legal duty under the Highways Act 1980 to maintain the Essex highways network. At present ECC primarily meets this duty by commissioning Ringway Jacobs to deliver highways services. The Council has a ten-year contract which commenced in April 2012. The Council only issues

task orders to Ringway Jacobs for the work it asks Ringway Jacobs to do. As such ECC has a broad discretion as to which task orders are issued.

- 3.2 Due to the high value of some task orders approval is required at the start of the new financial year 2021/22 for the task orders to be issued.
- 3.3 The high-level budget for all Council services in 2021/22, including Essex Highways, have been recommended for approval by Council at its meeting on 23 February 2021. Those budgets were based on planned levels of expenditure under a number of headings. This report seeks authority to issue task orders to reflect the assumptions made when the budget was proposed.
- 3.4 Task orders are issued under a number of headings. Some of them are for planned maintenance such as resurfacing, some are for upgrading services – such as the installation of LED streetlighting and some are for fixed costs.
- 3.5 The task orders are listed in the appendix to this report. One of the task orders relates to the basic costs of running the service, such as management costs and the costs of running depots and IT systems.
- 3.6 Most of the task orders relate to planned maintenance. In these cases, the value of the task order is calculated by reference to the target costs of a number of schemes. RJ is required to achieve the target cost and both ECC and RJ share any under and overspend above a certain limit. The number of schemes deliverable is likely to change over the year, as it may need to change as a result of unexpectedly long periods of hot or cold weather or the impact of the network of a cold spell. It may also need to change to respond to major issues occurring (e.g. the need for bridge maintenance). Changes are dealt with by variations to the task order issued under the contract.
- 3.7 For responsive maintenance there is a value attached to the task order. The format of the task order is being revised to ensure that work is prioritised in the best way possible and to clarify the position on liability for claims.
- 3.8 For major schemes, the schemes we expect to deliver in 2021/22 are in the appendix but again these may be subject to change. Any decision to change task orders will be taken in accordance with the constitution.
- 3.9 The highways service helps achieve the following aims of the Organisational Strategy:
 - **Help create great places to grow up, live and work**
 - Secure sustainable development and protect the environment
 - Reduce the environmental impact and cost to the taxpayer of dealing with waste, by working effectively with partners to minimise waste.
 - Improve the image of the county, by promoting the benefits of Essex Highways and the County Council.

- Reduce carbon emissions and energy costs for Essex Highways by supporting the development of new strategies that promote clean growth and the use of affordable energy.
- **Transform the council to achieve more with less**
 - Limit cost and drive growth in revenue
 - Optimise revenue from services, by charging appropriately and realising commercial benefit
 - Drive out inefficiency, by reducing costs, increasing productivity and adopting lean methodology.
 - Work collaboratively with partners to deliver maximum value for taxpayers' money that is spent through Essex Highways.

4. Options

- 4.1 **Option 1:** Issue the task orders as in **Table 1, Appendix 1** which will enable Essex Highways to commission Ringway Jacobs to deliver planned highways maintenance services, within the already agreed budget for 2021/22.

This is the preferred option which will ensure there is no further delay to delivering works and services already scheduled for this financial year.

- 4.2 Other options include not issuing task orders, but this is not recommended as it means that no highway works will be delivered. The task orders are recommended as they represent a balance between
- planned maintenance – which reduces the cost of responsive maintenance
 - responsive maintenance - to discharge the council's legal duties
 - investment in improving the service which may lead to a reduction in revenue costs (e.g. installation of LED lighting)

5. Issues for consideration

5.1 Financial implications

- 5.1.1 Essex Highways has a draft 2021/22 revenue budget allocation of £28.7m within which the revenue task orders detailed in Appendix 1 can be accommodated. The task orders will be set at a level to ensure the budget can accommodate any cost pressures that contractually must be incurred.

- 5.1.2 Essex Highways has a draft 2021/22 capital budget allocation of £78.3m within which the capital highways maintenance task orders detailed in Appendix 1 can be accommodated. The Highways capital budget allocation is assumed to be funded partly by an un-ring-fenced Department for Transport (DfT) grant which is estimated to be £34.7m and ECC resources. The associated revenue cost of borrowing to fund the remainder of the maintenance programme is approximately £2.1m per annum (based on £43.6m borrowing being required). This is accounted for within the proposed Medium-Term Resources Strategy (MTRS), there are no additional costs as a result of this decision.

5.1.3 Also within the draft 2021/22 capital programme is a capital budget allocation of £82.9m in relation to named Highways Major schemes which can accommodate the named schemes task orders as detailed in Appendix 1. This is funded by a mixture of grants and ECC resources. It is estimated that the associated revenue cost of borrowing is approximately £683,000 per annum (based on £3.4m borrowing being required). This is accounted for within the MTRS, there are no additional costs as a result of this decision.

5.2 Legal implications -

5.2.1 The contract with Ringway Jacobs Limited requires task orders to be issued. Ringway Jacobs must comply with the task orders. It is important that the task orders reflect sufficient information about the works which the contractor is required to do otherwise it is difficult to legally hold it account if it does not deliver what the Council is expecting. It is therefore very important that Legal advice is taken on the content of the task orders.

6. Equality and Diversity implications

- 6.1 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.
- 6.2 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).
- 6.3 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.

7. List of appendices

Appendix 1 – 2021 22 Task Order values of £2m and over
Appendix 2 - Equality Impact Assessment

8. List of Background papers

None

Table 1: Task Order values are within the allocated draft ECC budget for 2021/22:

REVENUE Task Orders: Values of £2m and over
Street Lighting - Task Order 11. Value £2m This relates to the maintenance of the street lights, including repairing defects on lights, signs and bollards. It also includes electrical and structural testing on all street lighting columns and some traffic management / out of hours costs as needed to undertake the work safely.
Routine/Emergency Maintenance - Task Order 7. Value £3.1m This relates to emergency response service which deals with dangerous and urgent defects, plus the routine repair of identified defects on footways, cycleways, signs, non-illuminated bollards, fencing and guardrail, drains and their metal covers, and road markings. These are dealt with in priority order.
Local Overheads - Task Order 28. Value £9.0m This relates to the cost of local overheads incurred by Ringway Jacobs which are required in order to deliver the highways service. These include RJ staff and general costs such as ICT hardware and ICT software and licences, mobile telephones, office and depot rent and running costs, training, insurances, personal protective equipment.
Third Party Works (External) - Task Order 35. Value estimated to be £3.0m This relates to the delivery of individual services and schemes for third parties, for example other highway authorities and District Councils. Services and schemes are wholly funded by the third-party clients and not ECC. Examples include the selling of Intelligent Transport Systems (ITS), Network Management and Passenger Transport Management services to Southend and Thurrock Unitary Authorities. These deliver financial benefits by enabling ECC to share overhead costs with other authorities and generating economies of scale for everyone.
Maximum Revenue Total; £17,100,000
CAPITAL Task Orders: Values of £2m and over
Active Travel Fund – Task Order 02. Value £7.4m DfT funding to deliver a transformative set of active travel schemes to reallocate road space to active travel measures such as cycling and walking to ensure better access to town centres, places of employment and other key areas.
ITS – Task order T37. Value £2.0m The Delivery of Traffic Signal Replacement Works as part of a planned programme of Capital Works.
Safety Barriers - Task Order 82a, 82b, 83c & 82d. Value £2.0m The delivery of a planned programme of Capital Vehicle Restraint System works which includes an ongoing review of the current VRS assets as well as the replacement and upgrade of existing to the current standard where appropriate.
Street Lighting - Task Order 10. Value £3.0m This relates predominantly to the provision of programmed street lighting column replacement, plus the replacement of other illuminated assets such as bollards and beacons as necessary, including for example when they are damaged or destroyed in accidents. The capital funding will also be used to replace signposts where this is required on safety grounds.
Carriageway / Footway Patching and Gully Cleansing - Task Order 18. £3.0m

This relates to the delivery of a large capital patching programme and includes the cleansing and maintenance of drainage systems prior to the capital surfacing works taking place to ensure no drainage issues impact the new surfacing work. This programme helps to maintain the condition of the carriageway and footway assets alongside the larger programme of surface treatments/replacement.

Local Highways Panels - Task Order 21. Value between £4.0-5.0m

This relates to the delivery of a planned programme of capital schemes (selected by the Cabinet Member on the advice of the Local Highways Panels). These schemes are generally allocated to support local priorities for minor infrastructure improvements but may also be used to maintain highways assets to a higher standard than would otherwise be the case. Work is prioritised and confirmed by the LHPs to deliver an efficient, cost effective service, for example extending the use of direct delivery gangs to support delivery.

Surface Water Alleviation Scheme (SWAS) - Task Order 83a, 83b and 83c. Value £2.5m

This relates to the repair and complete renewal of existing highway surface water drainage systems to remove and prevent highway flooding. Works are targeted towards the PR1/PR2 network predominantly, plus high risk / flooding areas on Local Roads. Officers will decide which schemes are progressed and implemented in line with these priorities.

Advance Scheme Design Programme (ASD) - Task Order 84. Value £5.0m

This relates to the development of options, feasibility and preliminary design work for a programme of work to produce a 'pipeline' of schemes which can move forward quickly when external funding becomes available. Officers will decide which schemes are progressed for design work in the Advanced Scheme Design (ASD) programme, including planning and management of large major schemes. It also covers ASD stages 1,2 & 3a for proposed new infrastructure.

Large Major Schemes - Task Order 85. Value £5.4m

This relates to large major schemes identified by ECC. The projects below are covered by this task order:

- 1) **M11 Jct. 7A and Gilden Way Upgrading (£400,000)** - Roll over scheme on site with 2021/22 activities as follows:
 - Design reviews and construction administration resource/support for Essex.
- 2) **A127 Fairglen (£100,000)** - Roll over scheme with 2021/22 activities as follows:
 - Site Support to the Main Works Contract.
- 3) **A133/A120 Link Road and Colchester Rapid Transit - (£2.2m)** (HIF Schemes) - Roll over scheme with 2021/22 activities as follows:
 - Design of the Link Road and Rapid Transit schemes including planning application, stakeholder engagement etc.
- 4) **Chelmsford North Eastern Bypass and Beaulieu Park Station (£1.5m)** (HIF Scheme) - Roll over scheme with 2021/22 activities as follows:
 - Design of the Bypass including planning application, stakeholder engagement etc.

<ul style="list-style-type: none"> Progressing the approval stages with Network Rail (GRIP4) <p>5) Harlow STC: Gilston to Town Centre (£1.2m) (HIF scheme) - Roll over scheme with 2021/22 activities as follows:</p> <ul style="list-style-type: none"> Progressing/Designing the scheme through the design stages including stakeholder engagement etc
<p>Structures - Task Order 13. Value £8.950m</p> <p>This relates to the planned programme of capital maintenance and strengthening of structures on the network, including bridges, retaining walls and culverts (drains). Also includes funding to carry out Principal Inspections and Assessments.</p>
<p>Carriageways Capital Investment - Task Order 17a, 17b & 17c. Value £40.750m</p> <p>This relates to the programme of resurfacing and replacement of carriageways using various treatment types. It also includes the cost of designing schemes and the preparation of the proposed capital programme for future years. It includes feasibility works for future schemes and the management of a coring programme (T17c), related to the design of Carriageway capital works.</p>
<p>Named Capital Schemes - Task Order 32. Value £4.1m</p> <p>This relates to the delivery of named capital schemes identified by the Major Projects team, which contribute towards ECC's promotion of economic growth and future infrastructure development. The schemes are:</p> <ol style="list-style-type: none"> 1. Beaulieu Park Station £100,000 Continuation with technical support to Essex to progress the case for the station north of Chelmsford. 2. M11, J8: £200,000 Continuation of major scheme to construct improvements at junction 8, north of Harlow. This funding is for: <ul style="list-style-type: none"> Construction phase commencement and administration of the Works (construction will be started during 2021/22) 3. A127 Autonomous and Connected Highway: £600,000 Continuation of the previous A127 task force to identify and assess the feasibility of a number of improvements along the A127 corridor. 4. Army and Navy RAB, Chelmsford: £1.5m Continuation of the Army and Navy Task Force, implementation of short term options and development of long term options. 5. Cycling Infrastructure: £1.0m Continuation from 2020/21 for the Delivery of cycle schemes resulting from the Essex Cycle Strategy, Area Action Plans, and LCWIPS (Local Cycling & Walking Infrastructure Plans) 6. Colchester Sustainable Transport Package: £400,000 Continuation from 2020/21 for the feasibility, design and implementation of a package of sustainable travel improvements in Colchester to support the ongoing development of the Colchester Transportation Strategy. 7. South Maldon Relief Road: £300,000 Feasibility and Preliminary Design of the relief road to the south of Maldon.

LED Phase 4 - Task Order 73. Value £9.4m

This is the estimated cost of delivering year 1 of a 4 year programme of work, which will be the final delivery phase (phase 4) of the LED project. Year 1 (2021/22) aims to install around 27, 500 LED lanterns out of the total of circa 85,000 lanterns being installed over the 4 years of the LED conversion project.

Footways capital works - Task Order 81. Value £8.0m

This relates to the delivery of a programme of capital footway works, mainly but not exclusively prioritising low footfall footways which are mainly on the local road network (residential), across 12 districts, due to previous years prioritisation around high footfall footways in town centres This will include delivery of low-cost maintenance treatments and smaller footway repairs.

Maximum Capital Total: £106,500,000

Forward Plan reference number: FP/866/11/20

Report title: Establishment of a new 210-place primary school and 56 place Early Years provision at the St Luke's housing development, Runwell	
Report to: Cabinet	
Report by: Councillor Ray Gooding, Cabinet Member for Education and Skills	
Date: 16 February 2021	For: Decision
Enquiries to Clare Kershaw, Director, Education, Rhona Long – School Organisation Officer - email: rhona.long@essex.gov.uk	
County Divisions affected: Stock, Chelmsford	

NOT FOR PUBLICATION

This report contains a confidential appendix which is exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Purpose of Report

- 1.1. This report asks the Cabinet to approve the establishment of a new 210-place (1 form of entry) primary school and associated 56 place Early Years provision (for children aged 0-5) to meet growing demand for primary age places in the local area and award the relevant contract for delivery of the new school.
- 1.2. The demand is due to the housing development at the St Luke's Park new housing site in Runwell, Wickford. However, the location of the housing development is significantly closer to Rettendon, Chelmsford than to the Runwell area in Wickford. Therefore, for school planning purposes, this development is considered to be within the planning group for Rettendon, Chelmsford as this follows the expectation in terms of pupil demand and parental preferences and behaviour.

2. Recommendations

- 2.1. Agree that a new 210-place primary school and 56 place Early Years provision should be established to serve the population growth at the St. Luke's Park housing development.
- 2.2. Agree that the Director, Education issues notification that the Council is seeking to establish a free school in the area and seeks bids from potential sponsors by sending the notice to operators of schools in Essex, and by public notice.
- 2.3. To agree to undertake a procurement exercise to secure a construction partner through a mini competition using the Essex Construction Framework, in accordance with the budget set out in the Confidential Appendix.

2.4. Agree that the Head of Infrastructure Delivery is authorised to enter into a contract at the end of the procurement exercise to deliver the new primary school and Early Years provision on the St Luke's Park housing development, provided he is content that the following conditions have been met:

- a. A satisfactory planning permission has been granted; and
- b. The construction costs are within the agreed budget as stated within the Confidential Appendix and represent value for money.

3. Summary of issue

- 3.1. Primary pupil numbers in Rettendon, Chelmsford are forecast to grow over coming years, primarily due to new housing.
- 3.2. The latest Reception place forecasts for the Rettendon/West Hanningfield area are shown in the 10 Year Plan "Meeting the demand for school places in Essex 2020 to 2029":

Year	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30
+/-	-9	-6	-16	-14	-15	-16	-16	-16	-16	-16
Rettendon Primary, St Peter's CE Primary										

- 3.3. These forecast data show a permanent demand for more primary school places from September 2020. There have been sufficient places to accommodate the additional demand within Rettendon, Runwell and Wickford but from September 2022 there will be no surplus capacity in the surrounding areas and a permanent provision of new primary places is required.
- 3.4. The St Luke's Park housing development has been on-going for a number of years. The s106 agreement for the development required the provision of a site for a new primary school and Early Years provision. This has been provided and it will be prepared for handover to Essex County Council (ECC) in March 2021.
- 3.5. It is proposed that the new primary school be established for September 2022. Under the statutory presumption in favour of academies, ECC is required to hold a competition to seek a sponsor and then to make a recommendation to the Secretary of State. In July 2015 the Department for Education (DfE) renamed the 'Academy Presumption' as 'the Free School Presumption' and from now on all new schools which would have been classified as 'academies' are now being called 'free schools'.
- 3.6. It is proposed that the new primary school would open with 30 places available in Reception in September 2022. The school should grow on a phased basis and admit Reception intakes year-on-year.

- 3.7. In considering the proposal to establish a new school, the impact on other local schools has been considered. The new school is not expected to have any detrimental impact upon other local schools as it responds to increased demand. Phased growth should ensure no disproportionate impact upon any other school in the town.
- 3.8. If this decision is approved, proposals will be invited from potential academy sponsors to run the new primary school provision.
- 3.9. The Secretary of State will make the final decision about the successful sponsor and could decide to appoint a sponsor even if the Council considered that none of the proposals submitted were acceptable. As part of the implementation of the proposal, the Secretary of State may make a property transfer scheme which requires the Council to transfer an interest in land to the Academy Proprietor.
- 3.10. Similarly, the process for inviting potential sponsors for the Early Years provision will be advertised separately and proposals will be assessed by the grants panel who will evaluate responses against the criteria.
- 3.11. Sponsors will be invited to submit proposals for the new primary school and/or the Early Years provision.
- 3.12. Although its Priority Admission Area will be set once a sponsor is appointed by the Secretary of State, ECC will set out its expectation (when the specification is published) that the new school is intended to serve the local area.

Consultation

- 3.13. A consultation on the proposed new primary school and associated Early Years provision was conducted by ECC between 2 November 2020 and 13 December 2020, with consultation documents being made available online and sent to interested parties via email, and telephone appointments were arranged and publicised. Responses to the consultation could be made through the telephone appointments and/or via the electronic response form, and by letter or email.
- 3.14. Telephone appointment sessions took place on 19 November 2020. Attendees were able to ask ECC officers about the proposal. Feedback from the engagement sessions showed support for the proposals.
- 3.15. A total of 180 electronic responses were received during the consultation period. The analysis of the responses by category (as identified by the respondents) is as follows, which shows that the consultation reached a range of different stakeholders:

Category of Respondent:	Total	%
Parents/ carer	91	49%

Educational professional	5	3%
Locally elected politician	2	1%
Local resident	81	44%
Other	6	3%

- 3.16. A breakdown of the number of written responses for and against the proposals is as follows:

For/ Against Proposal	Total	%
In Favour	162	88
Neutral	3	2
Not in Favour	20	10
Grand Total	185	100

A summary of the responses received, along with other correspondence received, is included in the background papers.

- 3.17. The majority of the respondents who expressed support for the proposal emphasised the need to cater for the new housing in the area, and as a vital part of the community infrastructure in the area.
- 3.18. Although the new school will be an academy/free school it is ECC's intention that it will serve the local community, with the hope that its facilities will be made available to the public as much as possible. This will be stressed in the specification for the school.
- 3.19. Of the twenty responses that showed opposition to the proposal, most expressed concerns around traffic and parking issues. Comments relating to traffic and parking issues are frequently made in response to new school consultations. It is a common issue that schools and early years provision are located in residential areas and experience high volumes of traffic at the beginning and end of the school day. The alternative view, which was expressed by other respondents, is that locating the school and early years provision at the heart of the new development will make it a strong part of the new community, and will allow children living on the new development to walk rather than use transport.
- 3.20. Traffic and parking concerns relating to the proposal are being actively considered and appropriate mitigation options are being developed. We are planning to provide the site with 40 scooter and 18 cycle parking spaces for the school, and a further 2 scooter and 2 cycle spaces for the nursery to encourage walking. The inclusion of two secure pupil entrances (one being adjacent to the neighbourhood centre) will allow safe access to the school grounds for those not using private vehicles and will encourage walking. The new homes on the development are all within 800m walk of the school and as such the vehicular trip rates will have the potential to be significantly lower.

- 3.21. A number of respondents queried the admission arrangements and catchment area (priority admissions area) for the new school. As this will be the responsibility of the successful sponsor it was not possible to give a definitive answer to these questions. However, it was stressed that ECC's intention is that school serve the local community, and that the specification for the new school will emphasise this intention. When the sponsor is appointed officials will engage with them over the admissions process.

Procurement

- 3.22. A mini competition will be undertaken using the Essex Construction Framework. This Framework has been used by ECC on many occasions for similar construction contracts and the prescribed process set out within the Framework Agreement will be used. The contract will only be awarded to the successful bidder once the Head of Infrastructure Delivery is satisfied that planning permission has been granted to the new school and early years provision; and the construction costs are within the agreed budget and represent value for money.

Proposed Building Works

- 3.23. Proposed delivery timescales are as follows:

Milestone	Date
Planning application to be submitted	January 2021
Planning permission	May 2021
Final Business Case to Investment Board	June 2021
Start on site	July 2021
Build completion for handover	July 2022

4. Options

- 4.1. **Option 1 – Agree to approve the publication of a specification inviting proposals to establish a new 210-place (2 forms of entry) primary school, and separately invite proposals for the early years provision, and award the relevant contract for delivery of the new school.**
- 4.2. It has always been the intention that a new school and Early Years provision should be built on the St. Luke's Park housing development to serve the new community that is evolving there. The s106 agreement which secured the option of a site is a concrete expression of this intention. There is at present no other site for a new school or Early Years provision available to ECC in the area.
- 4.3. If it were decided not to take this option forward another site would need to be found for a new school and Early Years provision, or other options developed with existing schools, causing delay and additional expense to ECC.
- 4.4. Responses to the public consultation show support for the proposals in the area, both to provide local school places and Early Years places for residents and to help provide a focal point for the community. Although reservations have been

raised in relation to traffic potentially created by the new school and Early Years provision, the counter argument is that without a school in the area parents may have longer journeys to other schools, which in turn would create more traffic.

4.5. The outcome of the consultation and analysis of the costs indicated that a new 1FE primary school and 56 place Early Years provision on the St. Luke's Park housing development site is viable and represents good value for money to the Essex taxpayer and is therefore the recommended option.

4.6. Option 1 is the preferred option.

4.7. Option 2 – do nothing

4.8. The option to do nothing prevents the creation of the new primary school and Early Years provision. There is a need to increase these provisions and the proposed new primary school and Early Years setting is a solution to meet the continued increase in demand and for ECC to meet its statutory duty to provide a school place for every child.

4.9. Should additional places not be delivered for September 2022, there is a significant risk that children will be without school or nursery places in their local area, that longer journeys will need to be made between home and school/nursery in order to find alternative settings with spaces and that in an increased number of parental preferences will not be satisfied. Accordingly, this is not the recommended option.

5. Links to Essex Vision

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

- Provide an equal foundation for every child
- Develop our County sustainably
- Share prosperity with everyone

5.2 This links to the following strategic aims in the Organisational Plan:

- Enable inclusive economic growth
- Help people get the best start and age well
- Help create great places to grow up, live and work

5.3 By proceeding with the project, the Council fulfils its duty to promote high educational standards, ensure fair access to educational opportunity, and promotes the fulfilment of every child's educational potential. It also seeks to ensure that there are enough school places in this part of the county to promote diversity and increase parental choice. The proposed new infrastructure focusses on providing low carbon deliverables and so promotes a sustainable solution.

6. Issues for consideration

6.1. Financial implications

Capital

- 6.2. Please see the confidential financial appendix for capital financial information.

Revenue

- 6.3. A pre-opening budget of £150,000 will be provided from the Growth Fund to pay for costs incurred before the new school becomes a legal entity and has pupils on roll, as set out in the ECC Growth Fund Policy. This is to ensure that the school can undertake all necessary work and appoint staff in preparation for opening.
- 6.4. School revenue budgets are funded from the Dedicated Schools Grant (DSG) and are based on pupil numbers in the October prior to the start of the financial year. For new academies, in the first year of operation the LA confirms a funding allocation based on estimated numbers across the year groups that will open in the first year of operation. The DfE allows basic need growth to be funded by the Essex Formula for Funding Schools and the difference between estimated pupils and the October Census is added to the number on roll which will generate additional funding in an academic year to ensure the school has sufficient resources to provide the required number of classes. At the end of the approved growth period the school will be funded on actual pupil numbers. Indicative funding for 30 places from September 2022 is £260,930.
- 6.5. Furniture and equipment will be funded from within the existing furniture and equipment revenue budget funded via the DSG.
- 6.6. It is not considered that this scheme will increase Home to School transport costs as it fulfils the demand needs in its local area.
- 6.7. There are no staff transfer issues as the academy will be new provision. Staffing for the new school will be decided by the sponsor and will be funded by the academy budget via the Education and Skills Funding Agency. There will be no staffing implications for ECC staff, apart from funding from the Growth Fund, which is part of the DSG, for pre-opening resource costs within the start-up grant.
- 6.8. ECC is required to make provision in its Growth Fund, which is part of DSG, to support increases in pupil numbers relating to basic need.

6.9. Legal Implications

- 6.10. Local authorities must continue to plan for and secure sufficient schools and places for their area in line with their duties under section 14 of the Education Act 1996.
- 6.11. The Education Act 2011 changed the arrangements for establishing new schools and introduced section 6A 'the academy or free school presumption' into the Education and Inspections Act 2006. Where a local authority identifies the need for a new school in its area it must invite proposals to establish an academy/free school and to specify a date by which proposals must be submitted to the local

authority. In July 2015, this duty was renamed 'the Free School presumption' by the Department for Education, although this makes no difference in practice and the law has not changed.

- 6.12. ECC will evaluate the responses received and send all bids and the Council's comments to the Secretary of State. The Secretary of State will enter into a funding agreement with the approved academy proprietor of his choice, having considered all proposals and the views of the local authority.
- 6.13. ECC will be required to grant a lease/sub-lease of the land to the proprietor of the academy.
- 6.14. The building works will be procured by ECC using a framework agreement which it is entitled to use. Contractors experienced in working on projects of this type will be used.
- 6.15. The premises to be provided will need to meet the statutory requirements of the Education (School Premises) Regulations 1999 and the feasibility studies and the final programme will ensure that this happens.

7. Equality and Diversity implications

- 7.1. The Public Sector Equality Duty applies to ECC 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 which has been carried out indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

8. List of appendices

- 8.1. Appendix A – Equality Impact Assessment
- 8.2. Appendix B - Confidential Appendix

9. List of Background papers

- 9.1. Consultation document
- 9.2. Consultation responses
- 9.3. Minutes to telephone appointments

Forward Plan reference number: FP/800/09/20

Report title: Land at Hamberts Farm, South Woodham Ferrers – Residential Development	
Report to: Cabinet	
Report author: Councillor Tony Ball - Cabinet Member for Economic Development	
Date: 16 February 2021	For: Decision
Enquiries to: Paul Crick Director, Investment, Performance and Delivery email paul.crick@essex.gov.uk or David Evans, Head of Property email david.evans@essex.gov.uk	
County Divisions affected: South Woodham Ferrers	

Confidential Appendix

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Purpose of Report

- 1.1 To seek approval to enter into negotiations with Countryside plc to agree an Option Agreement in favour of Essex County Council (ECC) in relation to ECC's Hamberts Farm site. The Option Agreement will set out the process and terms of development of a 116 acre site in South Woodham Ferrers for residential use. The proposals for development also include for the provision of a primary school, healthcare and recreational facilities for the benefit of the wider community together with road improvements, cycleways and footpaths.

2. Recommendations

- 2.1 Agree to enter into negotiation with Countryside PLC based on the Heads of Terms as set out in the confidential appendix in order to finalise the form of an Option Agreement.
- 2.2 Note that a further report will be brought back to Cabinet once there is a recommended final form of option agreement.

3. Summary of Issue

- 3.1 ECC own the freehold title to Hamberts Farm which extends to 116 acres (47 hectares) of land in South Woodham Ferrers (Site), of which approximately 40 acres of land is developable for housing. The Site is shown coloured blue on the plan at Appendix A (Plan). The Site includes three houses and a range of barns

which are currently let on an agricultural tenancy. The Council has not declared the land surplus to its requirements, although it has not been in the business of being a provider of rented agricultural property for many years.

- 3.2 The Site is adjacent to land controlled by Countryside Properties PLC (Countryside). The Countryside land is shown coloured red on the attached Plan. It is also adjacent to land owned by the Speakman Family which is shown coloured purple on the Plan.
- 3.3 ECC has considered bringing forward the Site for development for a number of years and agreed an Option Agreement with Croudace Homes which expired in 2010. Subsequently, Chelmsford City Council indicated that they would consider the allocating the relevant land for residential development. Initial discussions with Countryside commenced in 2016.
- 3.4 In 2018, ECC's property advisors Lambert Smith Hampton (LSH) carried out a market testing process to ascertain the appetite and potential terms for a new Option agreement with a number of larger residential developers and housebuilders including Countryside. The developers and housebuilders consulted are listed in the Confidential Appendix at Appendix B to this report.
- 3.5 After consultation with ECC officers, LSH have provided formal written advice to ECC that exclusive negotiations should be taken forward with Countryside. Heads of Terms for an option agreement were agreed by LSH in consultation with ECC officers to allow detailed negotiation to commence between the parties.
- 3.6 The key benefit of having an Option Agreement with Countryside is that they are also proposing to develop an adjoining site which they control. An agreement with Countryside would achieve:
 - Development of the site by a major developer with a good track record of delivering residential development schemes alongside an adjoining site.
 - Co-development with the adjoining land will mean that ECC can:
 - Agree a way of sharing the risks and benefits of development across landholdings. This arrangement has been detailed in the heads of terms and further set out in the Confidential Appendix to this report at Appendix B.
 - A way to share risk and cost of installing infrastructure which will provide economies of scale and enhance returns
 - The proposals for development also include for the provision of a primary school , healthcare and recreational facilities for the benefit of the wider community together with road improvements, cycleways and footpaths.
- 3.7 Chelmsford City Council formally adopted its Local Plan (Local Plan) at the end of May 2020. The Local Plan references an allocation north of South Woodham Ferrers for “around 1,000 dwellings plus necessary infrastructure” and this allocation includes the Site along with land controlled by Countryside and the Speakman family. South Woodham Ferrers Town Council have consulted on the emerging South Woodham Ferrers neighbourhood plan which also included the

proposed Chelmsford City Council allocation north of the town. The ECC and Countryside housing allocation in the Local Plan would see approximately 800 housing units being built across the combined ECC and Countryside site, with the balance being developed on land owned by the Speakman family.

- 3.8 It is anticipated that an option agreement would see ECC's entire landholding of 116 acres transferred to Countryside, other than the three farmhouses and some farm buildings. While only 40 acres are developable for housing, the remaining land will be used for development site assembly and fulfilling requirements for public open space and other planning agreement matters. There would be no benefit to ECC in transferring the housing development land only as the balance of the site will, at least in the short term, be a liability with ECC unable to derive any future financial return from the holding.
- 3.9 ECC would retain the ability to buy part of the Site from the agreement to allow for development of a social care / independent living facility. This retention of interest will be part of the negotiations for terms of the option agreement. Any development of a social care facility will be at the direction and decision of ECC.
- 3.10 ECC would also look to dispose of the three houses and barns and achieve a capital receipt for these once vacant possession has been obtained. These properties would sit outside of the scope of the option agreement. ECC would be responsible for ending the agricultural tenancy on the Site and would need to accept the risk of difficulties and timing to end the tenancy. ECC would seek to mitigate risks in the terms of the option agreement.
- 3.11 Countryside have already produced and brought forward Master Planning for their land and for the ECC site required by the Chelmsford City Council Local Plan at their own risk. This has been done in consultation and collaboration with ECC and have carried out consultation with key stakeholders and submitted to Chelmsford City Council a site wide master plan. The consultation process has included presentations and feedback to Chelmsford City Council and South Woodham Ferrers Town Council as well as Essex Highways. Key areas raised have included density of residential development, provision of non-residential infrastructure, cycle routes and road / crossing improvements in and around the proposed development site. A revised Masterplan was presented to CCC in January 2021.
- 3.12 Any development of the site will require infrastructure to be constructed on the site. The arrangements and requirements will be discussed and agreed as part of the option agreement with Countryside and will be subject to the conditions set out in a future planning consent. However, the risk and cost will be shared between ECC and Countryside through an equalisation mechanism. Details of this are set out in the Confidential Appendix.
- 3.13 Countryside have prepared a draft Option Agreement for ECC to consider. Essex Legal Services have been engaged to support ECC officers and LSH. Should the recommendation be approved, negotiation will commence on the draft option agreement with Countryside. It is intended that the draft Agreement will be brought to an agreed form as soon as practicably possible. Full details of the final

terms of the Option Agreement, will be brought back to Cabinet for approval. Once the Option Agreement is completed Countryside will look to submit a detailed planning application as soon as practicably possible.

- 3.14 The Council will ensure that the recommendations of the Climate Change Commission are considered and taken account as part of discussion and negotiation with Countryside and reflected in the final terms of the option agreement.

4. Options

- 4.1 A number of different options have been considered for ECC to bring forward development on the site. LSH's advice was to pursue the completion of an Option Agreement with an appropriate developer and the following alternative options were not recommended for adoption:
- 4.2 Option One - Do Nothing - Not recommended - ECC has the option to do nothing and retain the land for its current use and continue to receive the £11,700 per annum income. Given that the ECC land has been included in Chelmsford City's allocation for residential use in the new local plan, this would appear to be an appropriate time to seek to release the value in the site.
- 4.3 Option Two – Not recommended – Place the whole site on the open market for immediate disposal, not under an option agreement. This is a large site and to require an immediate capital receipt rather than taking money as the development progresses is likely to lead to considerably depressed bids as any purchaser will have to take a number of risks as well as finance the cost of purchase until income is received from sales. These bids would be unlikely to satisfy statutory requirements for best value for the disposal of ECC's land. Although this would lead to a short term capital receipt, such a receipt would be most unlikely to represent anything close to the achievable value of the site.
- 4.4 Option Three – Not recommended- Deliver infrastructure to the site and sell development parcels. A very significant level of investment would be required to provide infrastructure to the entirety of ECC's developable land (40 acres). ECC would require additional expertise (either internally or through consultants), and ECC would bear the risk of whether capital receipts exceeded expenditure. ECC would have limited control over the allocation of plots as between its own land and the Countryside and Speakman land and may well find that the number of developable parcels achievable balanced with related infrastructure costs may be reduced, significantly reducing financial returns.
- 4.5 Option Four – not recommended - Enter into a joint venture agreement with another developer in which ECC would form a special purpose vehicle for the development of the site. Although this could see ECC having a greater level of control over the development it would expose ECC to a significantly higher level of risk than a sale of land over an extended period of time to a developer through an Option Agreement and would require a high level of involvement by officers and consultants to input into and monitor such an arrangement. There would be

significant costs involved in setting up and administering a corporate Joint Venture (JV) entity.

- 4.6 Option Five – not recommended - Self develop the site. A significant level of investment would be required. This option has been considered previously by Essex Housing for development by ECC and not pursued. Countryside have a significant head start in terms of their thinking and working with the planning authority, and whilst ECC would absolutely control the design of any scheme there would be every chance that Countryside dominate the allocation of developable plots within the allocation site thereby diminishing potential returns to ECC.
- 4.7 Option Six – Enter into a competition to select a developer to have an option agreement. This would duplicate work done in 2018 to soft market test the land and the advice of valuers at that time led to Countryside being considered most likely to give the best offer. The Head of Property does not believe that there is likely to be any more or better interest in the site than there was in 2018.
- 4.8 Option 7 – Recommended – Enter into negotiations with Countryside for an option Agreement. Key benefits of having an option agreement with Countryside are:
- Synergy with the development of Countryside's adjoining land.
 - A guarantee on the number of houses from which ECC can derive a financial return based on a 50-50 split with Countryside. This is something no other party has been able to offer.
 - Spread of risk in infrastructure costs to bring forward the development.
- 4.9 All options would enable ECC to
- Retain land for the development of a residential care facility should ECC wish to once service infrastructure has been installed (although this could be achieved with .
 - retain ability to dispose of existing farmhouse and two separate houses together with the farm buildings on the site which will all be out with the scope of the Option Agreement.
- 4.10 Further information about the valuation is in the confidential appendix.

5 Next Steps

- 5.1 Negotiate the draft option agreement with Countryside
- 5.2 Obtain a formal opinion from LSH

6 Issues for consideration

6.1 Financial implications

- 6.1.1 Further details are included within the Confidential Appendix.

- 6.1.2 The recommended Option involves entering into negotiations with Countryside to ultimately achieve a significant capital receipt value once ECC's current land holding is developed rather than a) selling ECC's interest now and b) retaining ECC's interest in case of higher future value. The evidence in 3.5 and 3.6 above, with LSH's recommendation, support the recommended Option of entering into negotiation with Countryside as potentially achieving the highest financial return for ECC's land holding
- 6.1.3 The capital receipt would be received in stages as various parcels of land are developed. An early payment, from Countryside, would be payable once the Option is agreed, as detailed in the confidential appendix.
- 6.1.4 The sale of the existing farm buildings is within ECC's gift regardless of which development option is pursued and so is not considered here.
- 6.1.5 There is a current use rental income stream that would be lost as the land is developed. The annual income is £11,700 as detailed above at 4.2 and in the appendix.
- 6.1.6 The final decision would be for Cabinet to consider when the negotiation process has concluded

6.2 Legal implications

- 6.2.1 The Heads of Terms with Countryside that are set out in the Confidential Appendix do not legally commit or bind ECC.
- 6.2.2 ECC have a duty to achieve best value when disposing of assets under s123 Local Government Act 1972. ECC will need to ensure that the final terms of the proposed option agreement with Countryside deliver best value for ECC.
- 6.2.3 Whilst the Public Contracts Regulations 2015 (PCR) do not apply to a straightforward disposal of land, ECC need to consider the application of the PCR in relation to delivery by Countryside for ECC of elements of the development such as public realm and the proposed social care facility. Such works could constitute public work under the PCR. The final terms of the option agreement will need to consider the PCR implications.

7. Equality and Diversity implications

- 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).

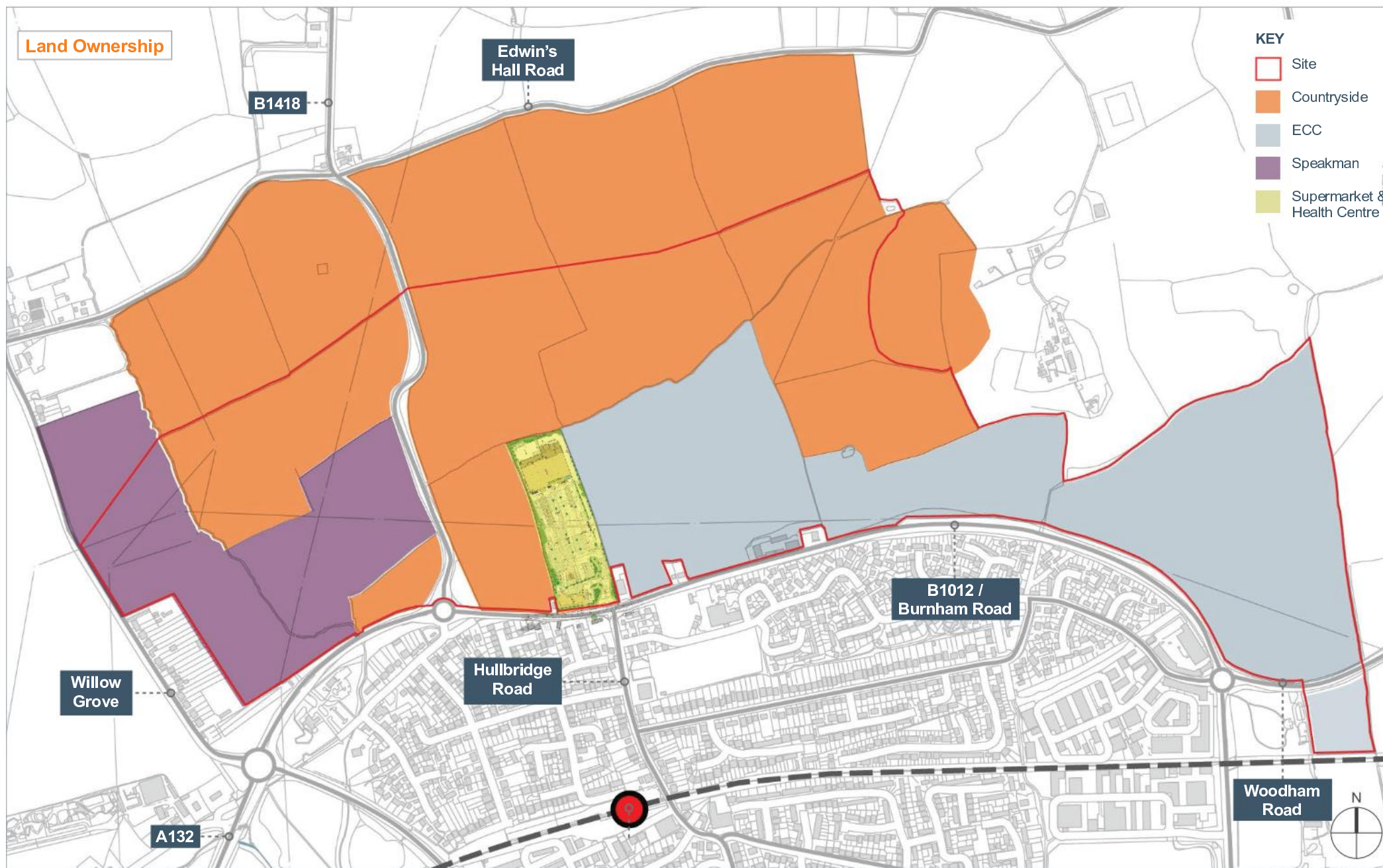
7.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

8. List of appendices

- Appendix A - Site Plan
- Appendix B – Confidential Appendix
- EQuIA

9. List of Background papers

None



Forward Plan reference number: FP/904/12/20

Report title: Integrated Waste Handling Service Delivery Options	
Report to: Cabinet	
Report author: Councillor Simon Walsh, Cabinet Member for Environment and Climate Action	
Date: 16 February 2021	For: Decision
Enquiries to: Samantha Kennedy, Director Environment and Climate Action, Mark Simpkins Head of Waste Operations mark.simpkins@essex.gov.uk	
County Divisions affected: All Essex	

Confidential Appendix

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Purpose of Report

- 1.1 To provide detailed information (as noted at Cabinet on 24 November 2020) about the arrangements for Essex County Council (ECC), as the Waste Disposal Authority (WDA), to ensure suitable arrangements for the disposal of certain wastes and the provision of recycling centres.
- 1.2 To seek approval of the recommended delivery model for the operation of the Recycling Centres for Household Waste (RCHW) and Waste Transfer Stations (WTS) to replace the current Integrated Waste Handling Contract (IWHC).

2. Recommendations

- 2.1. Agree that, after the expiry of the current contract on 31 March 2022, ECC assumes responsibility for operating the RCHW and WTS service using an in-house delivery model.
- 2.2. To delegate to the Cabinet Member for Environment and Climate Change Action, in consultation with the Cabinet Member for Finance, the approval of the additional resources and structure changes required to deliver the in-house delivery model.

3. Summary of issue

- 3.1. ECC, as WDA for Essex, must provide RCHW services, and ensure that suitable arrangements are in place to treat and dispose of all Local Authority Collected Waste (LACW). Such waste arises from the kerbside waste

collections undertaken by the Essex Waste Collection Authorities (WCAs) and from the RCHWs. As part of this service, ECC provides WTS's where LACW is bulked for more efficient onward transport.

- 3.2. The current IWHC delivers the following core waste service elements for ECC:
- a) operating and maintaining ECC's RCHW network
 - b) operating and maintaining ECC's WTS network
 - c) treatment and disposal of waste deposited at the RCHW (excluding residual and garden waste)
 - d) bulk haulage of waste from waste transfer stations to treatment and disposal facilities.
 - e) haulage of residual and green waste from RCHWs.
- 3.3. On 24 November 2020 (and as recorded in decision FP/803/09/20), Cabinet decided that:
- i) after the expiry of the current contract on 31 March 2022, ECC will assume responsibility for operating RCHW's and WTS's using a Hybrid Sourcing Model. This will include the direct delivery of the service by ECC with haulage, plant and equipment and the marketing of materials being procured for delivery by contractors.
 - ii) the Director, Environment and Climate Change Action will undertake a detailed appraisal of options for the delivery of the RCHW's and WTS's and a recommended approach for delivery will be brought back for a further decision by Cabinet in 2021.
- 3.4 This paper outlines the detailed appraisal of the delivery options for the insourced service from April 2022.
- 3.5 The future operating landscape for the service is uncertain with emerging national policy, legislation and European Union Exit. These combined with ECC's long term waste treatment challenges will require the service to be as agile as possible.
- 3.6 The delivery model will need to adapt to changing waste compositions, fluctuating markets and customer behaviour. These are looked at in more detail in Appendix 3, but it is important to retain tight direct control of the service to maximise flexibility and ensure that ECC meets evolving needs and deliver value for money services.
- 3.7 ECC have identified two viable operating models for the insourced operation of RCHW's and WTS's through a process of internal analysis and review of other local authority approaches. These two models were subject to qualitative and quantitative reviews to identify a recommended approach to future service delivery. The reviews considered a number of factors including flexibility, deliverability, future fit with ECC ambitions and services, emerging national policy, changing public behaviour and current service operations. These delivery models are:

- a) In-house
- b) Local Authority Trading Company

In-house

- 3.8 As a WDA, the Council is empowered to arrange itself to directly provide the statutory waste disposal services required by s51 of the Environmental Protection Act 1990 rather than do so via an external operator.
- 3.9 An in-house model involves the operation of the RCHWs and WTSs being directly delivered by ECC with all staff transferring into ECC on existing Terms and Conditions (T&C's) as required by legislation. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) would apply.
- 3.10 Once all staff are transferred in, ECC may offer access to the Local Government Pension Scheme (LGPS) and Essex Reward Gateway, although TUPE would not require this. This is likely to increase cost if a future decision is taken to outsource the service as employees transferred out of ECC in the future would retain access to the LGPS. However, the analysis of the market in Appendix 3 suggests that a value re-procurement in the short to medium term is unlikely due to a lack of competition, a change in supplier focus and the fact the ECC would lose the operational benefits that the in-house service would offer.
- 3.11 Any new staff engaged by ECC either prior to or post transfer would be employed on ECC T&C's (which includes access to the LGPS) and other benefits open to ECC employees. This could lead to disparity in the terms and conditions of employees who transferred over as compared to new staff. Any decision to harmonise the terms and conditions of the workforce so as to ensure parity would need to be handled carefully and pursuant to legal advice. Any decision to change the terms and conditions of transferring staff could potentially be a breach of TUPE regulations, even when the terms are more beneficial. However, it seems unlikely that transferring staff would object, although they would need to be consulted. As regards new staff, in the unlikely event that their terms and conditions (and those of pre-existing ECC staff) are less favourable by comparison, ECC would run the potential risk of an Equal Pay claim and ECC would need to evidence that the difference is not directly or indirectly discriminatory.
- 3.12 The key benefit of this option is that ECC will retain complete control over the service using existing governance to adopt an agile decision-making approach to change policy and operational practice to meet evolving need and legislative pressures.

Local Authority Trading Company (LATC)

- 3.13 ECC under the Localism Act 2011 has a power to do anything that individuals generally may do, subject to certain exceptions (the general power of

competence). The LATC would be set up under the general power of competence and other relevant statutory provisions.

- 3.14 A LATC would be established to deliver the same services as the in-house model but would deliver this via a trading company. The initial setup costs would be higher due to setting up separate systems for the company. All staff would be transferred into the company on their existing T&C's and TUPE would apply. However, unlike the inhouse model, the LATC could establish their own T&C's/policies for new staff rather than use ECC's. The new T&C's and policies for any new staff would need to be similar to the provision for existing staff including an equivalent pension arrangement to ensure equity.
- 3.15 ECC would be able to make a direct award to the LATC by virtue of Regulation 12 of the Public Contracts Regulations 2015 (Teckal exemption) and would not be required to undertake a procurement exercise prior to this award.
- 3.16 The Teckal exemption applies where a contracting authority contracts with a company that the authority has set up and observes the strict limitations on trading with third parties. However, the company would need to follow public sector procurement rules in letting its own contracts. There are conditions that must be satisfied to comply with this exemption, which are summarised in Appendix 3.
- 3.17 The timescales involved in setting up a LATC that is fully aligned with ECC's systems and governance represents a significant risk, as it could take up to two years to fully implement and may not be ready for service implementation in April 2022. This may also bring additional unknown costs, as emergency arrangements could be required to ensure the management of the service in the interim and that all staff can still be transferred.
- 3.18 The delivery vehicle for the LATC would either be a Limited Company (Ltd) or a Limited Liability Partnership (LLP) and the key differences are shown in Appendix 3. There is little between the options as the tax liabilities are similar and the current commercial environment means that there is limited ability to trade externally. However, an LLP would provide more security over potential Corporation Tax implications.
- 3.19 This option would still enable ECC to retain control over the service, but there would be an extra layer of governance requirements with a company board. The services of the LATC could be offered to other authorities in the future, but it should be recognised that trading in the current waste market would be challenging and the company would be likely to lose any Teckal status, so it would then need to bid for any work with ECC. The LATC would not be guaranteed to win the contract to deliver the service.

Evaluation of Model

- 3.20 To arrive at the recommended approach, officers evaluated the options using qualitative and quantitative techniques, which are outlined in detail in Appendix 3.

- 3.21 The qualitative and quantitative evaluation undertaken has assumed that the in-house model transfers eligible staff directly into ECC and the LATC would transfer staff into the new company.
- 3.22 Both options deliver savings against a re-procured service. The LATC cost is anticipated to initially be marginally lower. However, the operational and reputational risks surrounding setting up and running a new company do not justify this marginal saving.
- 3.23 Both options may have an adverse impact on ECC's insurance premiums if insurers consider that this affects the risk profile of ECC's activities. However, the LATC would be more significant, as finding insurers that will provide suitable cover has been challenging in other areas, where this approach has been adopted.
- 3.24 The delivery models for both the In-house and LATC options are complex and have been investigated and assessed by ECC Officers in the Organisational Development and People (ODP), Finance, Legal and operations specialists.

4 Options

- 4.1 The following analysis identifies the key benefits and risks surrounding the two delivery options for managing the insourced RCHW and WTS service to inform the recommendation within section 2.

Option A (recommended): In-house Model

- 4.2 This approach is recommended as it is best placed to provide ECC with full control of key operational elements of the frontline services to residents and delivers the following benefits:
- Maximum control and agility to ECC during period of service change and uncertainty.
 - Greater opportunity to align the service with the priorities and values of ECC ensuring whole system benefits are maximised.
 - Flexibility to explore options for waste diversion and reuse, which could generate savings and improve performance.
 - Improves motivation of staff by embedding them into ECC with the potential of additional benefits offered by the LGPS and Essex Reward Gateway.
 - Greater opportunity for working with other ECC departments to deliver innovation and make best use of assets.
 - Reduced delivery risk.
 - Lower insurance risk through using ECC existing arrangements.
 - Reduced cost of capital to establish new service.
- 4.3 If ECC had an Economic, Technical or Organisational (ETO) reason to consider harmonisation of T&C's for the incoming staff to their benefit this would need to be carefully managed to comply with TUPE requirements.

- 4.4 LGPS may be offered as staff transfer into ECC and any new staff would be employed on ECC T&C's. This offer would increase the cost of TUPE obligations if future re-procurement of the service is considered.
- 4.5 The results of the qualitative and quantitative evaluations indicate that this model can offer maximum flexibility and agility with a marginally increased cost over Option B. The financial implications of the options can be found in the Confidential Appendix.
- 4.6 Further detail on both risks and opportunities of this model are provided in the qualitative evaluation and the risk log in Appendix 3.

Option B (not recommended) – Local Authority Trading Company

- 4.7 This option is not recommended. The LATC would have a marginally lower cost and many of the same benefits as the in-house option. However, this option carries a higher insurance risk. There is also a high risk for the service implementation in April 2022, as this is a challenging timescale for the model.
- 4.8 A LATC requires the formation of a Board, in-turn introducing an additional layer of governance over the in-house option. The Board are required to demonstrate the viability and operation of the company and these obligations may limit service options that Members may choose to implement.
- 4.9 In establishing a LATC there needs to be key drivers and a benefit is the commercial flexibility. However, opportunities at this time to trade outside of ECC are limited. There is huge variability in operational models with other authorities, whilst operating within the parameters of providing subsidies to corporate entities (previously known as state aid). This results in the LATC only working for ECC and therefore there is no benefit to a profit-based model.
- 4.10 Support services for a LATC would also be needed to ensure legal compliance and new systems would be required from procurement and finance perspective.
- 4.11 A LATC would require a significant amount of working capital to establish. ECC would need to comply with the subsidy rules whilst providing prudential borrowing to the company. It is envisaged a market rate for borrowing would need to be adopted by an uplift in interest rates to ensure compliance.

5 Next Steps

- 5.1 Following the Cabinet decision, the mobilisation of the delivery model will commence immediately with various workstreams including Human Resources, Governance, Operations, Procurements and Technology services.
- 5.2 To manage the implementation of the service additional resource has been identified within the financial model. The recruitment of two ODP Officers, a

Project Manager and a part time Technology Business Analyst are recommended. This resource would be required for either option, so costs have been factored into the Financial Model and a separate Cabinet Member Action have been prepared to facilitate this.

- 5.3 The integration of new staff into ECC may require structural changes and further work will be completed in preparation of the transfer to ensure that incoming operational, contract management and administration staff align with the existing Waste Operations Team to deliver the In-house delivery model.
- 5.4 A project board has already been established to manage the project and this will ensure that all key milestones and risks are managed throughout the mobilisation process.

6 Issues for consideration

6.1 Employment Implications

- 6.1.1 TUPE will apply to either option. At this early (options) stage only indicative due diligence can be undertaken upon information provided by the Contractor in accordance with the contract terms. All modelling (including financial) has been undertaken based on the information provided by the current contractor to date and any outlined assumptions. Any associated benefits / risks should be considered in the same context.
- 6.1.2 Good workforce culture is a key to the effective and efficient delivery of such transfers. This would be key for both options, so supporting the change and transition into the new organisation structure will be essential.

In-house

- 6.1.3 The staff currently employed by the contractor are committed to the delivery of services which ECC provides to residents. However, such staff transfers may lead to increases in staff costs. These have been carefully assessed from a financial perspective. As the new employer ECC would be required to take on eligible employees on their existing T&C's and would be prohibited from making any changes to these T&C's for the transferred employees if the sole or principal reason for the variation was the transfer. However, changes to the workforce can be made when there is an ETO reason.
- 6.1.4 ECC policies and systems for payroll, recruitment and learning and development could be adapted for any transferred staff.

LATC

- 6.1.5 TUPE would still apply to the LATC and employees would transfer in on their current T&C's and the LATC would still need an ETO reason to make any changes to the workforce or to their terms and conditions as a whole.

- 6.1.6 The LATC would likely want to create their own people policies and terms and conditions rather than use those of ECC. Whilst establishing new policies would be time consuming, it would protect ECC against the potential costs of Essex pay.
- 6.1.7 The LATC would require the setup of new systems for payroll, recruitment and learning and development.
- 6.1.8 Background information and additional detail of the identified employment and people implications relating to TUPE are highlighted in Appendix 3 section 7.

6.2 Financial implications

- 6.2.1 The Hybrid Sourcing Model recommendation will require Capital Expenditure, which has been factored into the financial model. An analysis and business case will be brought forward once quantified to add this to the capital programme.
- 6.2.2 The financial modelling for the in-house option assumes the worst-case scenario from a financial perspective, where all staff could be harmonised onto ECC T&C's, including 100% sign up to the LGPS. The modelling for the LATC assumes that all staff stay on current T&C's and retain access to an equivalent pension scheme.
- 6.2.3 The current Medium Term Resource Strategy (MTRS) 2020/21 contains an increased expenditure post April 2022 for a new contractual provision of £765,000 per annum, against an average annual contract spend of c.£12.8m. There is currently no capital provision allocated for the proposed capital requirement as per table 1, in the confidential appendix ranging from £3.4m to £7.5m dependant on procurement options post tender.
- 6.2.4 Taking the midpoint of the analysis in the table for the in-house position this would instigate a further budget pressure of c.£1.24m which is not included in the MTRS at the current time, from April 2022 including the cost of capital. This includes c.£250,000 of project costs, (surveys/implementation fees) prevalent to the successful project delivery. The service will seek to contain the increase in costs through service transformation initially or, subject to governance, would propose to be met via the Waste Reserve as a last resort if containment was not possible and other funding sources were not identified.
- 6.2.5 The results of the financial modelling indicate that the in-house option delivers the best value for money in terms of mid-point delivery and net present value (NPV). The LATC option is marginally less beneficial and contains significant implementation risk in the delivery timescale.

6.2.6 Financial Risks

6.2.6.1 Price

All references to the prices have been supplied as part of the market testing and information gathering carried out during the summer of 2020. Should the

procurement generate a different level of lease and capital costs, or should the attractiveness not generate a sufficient competition from that provided as part of this exercise from either a move in the market, or deliverable third-party capacity (e.g. Covid Restrictions/EU Exit), then the information compiled in this document would need to be subject to re-evaluation.

6.2.6.2 Macro-Economic Risk

All reference prices have considered indexation within the procurement. The model has recognised this throughout the modelling and assumed an indexation level of 2.5% annually throughout the term. No assumptions have been modelled around currency exchange rate changes or EU Exit risk.

6.2.6.3 Staff

Staff costs have been modelled over several scenarios and conceptual designs in order to run the service as effectively and efficiently as possible. ECC's ODP service have been consulted and approved the methodology applied throughout the scenarios modelled. Final TUPE information would not be available until 28 days before the transfer, although the contractor is required to provide initial information through the existing contract.

6.2.6.4 Operating Vehicle

The scenarios demonstrated within this report assume full integration of some staff into the ECC current staffing structure or a separate LATC. Officers will continue to evaluate the TUPE implications and procurement options under the Hybrid Insourcing Model to ensure risk mitigation and cost efficiency

6.2.6.5 Model Assumptions

The project has been modelled on a like for like basis with the same service offering as today.

6.2.6.6 Financial Summary

This paper is based upon assumptions gathered throughout the business case review to source a more financially viable, flexible, and sustainable delivery vehicle for the operation of the RCHWs and WTSs operations. The service operation team have been consulted in detail on the modelled assumptions, staff, plant/equipment requirements, and operational costs, approving the model. The continued aim to reduce the impact of costs on the taxpayer drives the financial conclusion, subject to deliverability, affordability and risk mitigation.

The options reviewed are outlined in section 4.

6.3 Legal implications

6.3.1 The provisions of TUPE must be considered and adhered to when in-sourcing the service or taking the service into an LATC. This includes recognition of the existing T&C's for eligible employees.

6.3.2 By taking direct responsibility for this large physical operation ECC will have the primary duty for the health and safety of employees, customers and

visitors at the site. Proper procedures must be in place for a safe system of work and all applicable laws must be observed.

- 6.3.3 By taking direct responsibility for this operation, ECC will also have the primary duty for the lawful operation of the services and site. All necessary licensing and permits must be obtained and applicable laws observed.
- 6.3.4 Any reform of local government is likely to impact both options considered in this Report.

7 Equality and Diversity implications

- 7.1 The Equality Act 2010 and 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.

8 List of appendices

Appendix 1 - EQIA
Appendix 2 - Confidential Appendix
Appendix 3 - Evaluation

9 List of Background papers

- November Cabinet paper - Integrated Waste Handling Contract Service Delivery (FP/803/09/20)
- IWHC Qualitative Options Appraisal
- IWHC Financial Model
- Records of the market engagement exercises.

APPENDIX 3: Integrated Waste Handling Service Delivery Options - Evaluation and Background

Report title: Integrated Waste Handling Service Delivery Options	
Report to: Cabinet	
Report author: Councillor Simon Walsh, Cabinet Member for Environment and Climate Change Action	
Date: 16 February 2021	For: Decision
Enquiries to: Samantha Kennedy, Director Environment and Climate Action, Mark Simpkins Head of Waste Operations mark.simpkins@essex.gov.uk	
County Divisions affected: All Essex	

1 Overview

- 1.1 The report highlights the uncertainty that Essex faces in several areas including national and local Waste Strategy, future market volatility, the outcome of the Environment Bill and residual waste disposal.
- 1.2 The above challenges will inevitably require the service to adapt swiftly to changing market conditions and new strategic targets, so it is critical the delivery model can deliver new initiatives in a sustainable and cost-effective manner.
- 1.3 The options evaluated in this report focus on either an in-house model where ECC directly employ all staff to deliver the service or establish a LATC to provide the service and transfer all staff into the new entity.
- 1.4 The In-house model would deliver maximum agility and control over service aspirations to meet the above future pressures without the additional layers of governance or implementation risk that an LATC would create.

2 Market Analysis

- 2.1 Recent Market Engagement highlighted that only three bidders were interested in talking to ECC about providing the IWHC service. Providers appear to be focussing on fully integrated waste disposal contracts, which include the operation of RCHWs and WTS's, so there are now only a limited number of companies that would be likely to bid for the IWHC service in its current form.
- 2.2 Recycle value and material marketing risks are a major concern for bidders. The Resources and Waste Strategy, exit from the European Union and Covid-19 are likely to cause long term market volatility and contractors will price these risks for any future procurements.

- 2.3 The introduction of the national living wage has reduced the ability for contractors to be as flexible as possible with staff pay, which further reduces competition, as this is the largest cost element for the service.
- 2.4 As a result of the changing market and risk profiles, procuring a flexible value for money service may not be achievable in the short to medium term. It is therefore important that any decision focusses on the possible benefits for the recommended in-house delivery vehicle.

3 Summary of LATC Delivery Vehicles

- 3.1 The below summary is a more detailed breakdown of setting up the LATC delivery vehicles, which are referenced in sections 3 and 4 of the main report.

Teckal Status

- 3.2 ECC will need to ensure that it remains compliant with Regulation 12 (Teckal exemption) throughout the life of the LATC, including ensuring that the following conditions are satisfied:
- a) ECC exercises control over the LATC similar to that it exercises over its own departments;
 - b) More than 80% of the activities or turnover if the Ltd are carried out in the performance of tasks entrusted to it by ECC; and
 - c) There is no direct private capital participation in the Ltd.
- 3.3 In the event that the LATC wanted to outwardly trade, it is unlikely that the above conditions would be satisfied and therefore it would be classed as a non-Teckal company. This status means that it would not be subject to public sector procurement rules, so the LATC would need to tender for any work with ECC and be subject to the same evaluation criteria as any other supplier.

VAT

- 3.4 Under VAT statute that applies to ECC, waste disposal is deemed non-business and therefore VAT isn't charged on the provision of the service. However, any input VAT incurred can be reclaimed under section 33 of the VAT Act that allows ECC to reclaim input VAT on non-business activities.
- 3.5 Although ECC can apply the non-business provisions of the Act, the provision of the service by a separate delivery vehicle would be standard rated. This means VAT would need to be charged on service invoices issued by the LATC, whether those services are to the public or ECC. The LATC would be able to reclaim any input VAT incurred and ECC can reclaim any input VAT charged by the LATC under s33 as above. A LATC would need to register for VAT and operate the accounting records and VAT administration processes separately from ECC.

Limited Company (Ltd)

- 3.6 ECC could establish a Ltd company to operate the service and would be a 100% shareholder in the company.
- 3.7 Once the Ltd becomes incorporated, ECC would need to appoint directors to the company. It will also need to consider the most appropriate governance structure by drawing on the experience gained on its other wholly-owned companies or delivery vehicles.
- 3.8 The Ltd may be subject to Corporation Tax on any profits that it would make. The Ltd company may satisfy HMRC's requirement for 'mutual trade' status, meaning there would be no corporation tax on surpluses where the company is trading solely with ECC.

Limited Liability Partnership (LLP)

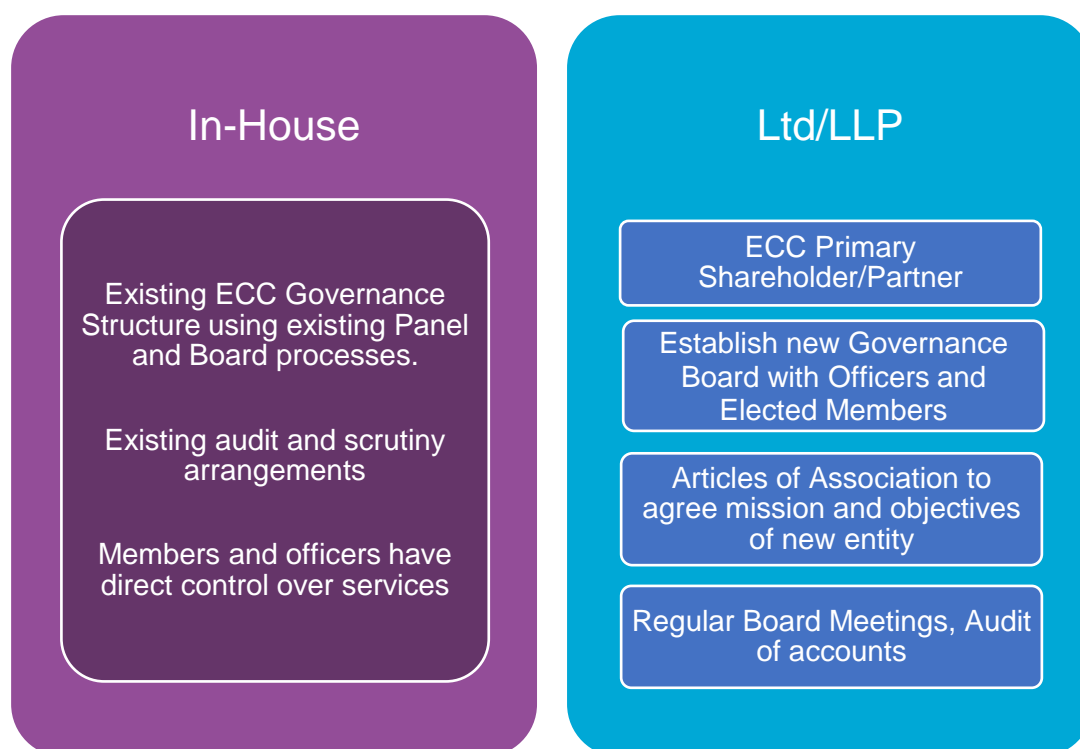
- 3.9 ECC could establish an LLP to operate the service and the partnership must have at least 2 members and 2 designated members (which can be the same corporate body). ECC would be a member and designated member, with a 99% interest in any LLP, with another entity being a designated member with a 1% interest. The Member acts as the LLP's agent and is only liable to the amount they have contributed to the LLP, unless the member agrees to contribute to the LLP's assets on its winding up. A designated member is a statutory role and has responsibilities and functions that are similar to those that a Ltd company director/secretary is required to do under company law.
- 3.10 The governance structure for the LLP would consist of a board membership to provide political, legal and financial oversight and accountability.
- 3.11 An LLP is not taxable in its own right on the profits that it generates, unlike a company, instead, the profits of each LLP are allocated to the individual members (partners) who are responsible for reporting their share of profits to HMRC in their individual tax returns, and for calculating their tax liabilities.
- 3.12 Given that ECC would be appointed as a full legal member of the LLP, any surpluses or gains attributed to ECC would be exempt from Corporation Tax, because of the ECC's absolute exemption. The minority partner may be liable to Corporation Tax depending on their status.

Evaluation of LATC delivery Vehicles

- 3.13 The benefits and risks of establishing the Ltd and LLP options are broadly similar, so for the purposes of this report they have been evaluated together. Each option has slightly different requirements in respect of ownership, but governance and VAT implications would be similar. The Ltd would need to qualify for mutual trade status to ensure that any profits are not subject to Corporation Tax, whereas this would not apply to ECC under the LLP option.

4 Governance

- 4.1 The In-house model would use existing governance with ECC to make changes to respond to future pressures and opportunities. The same principles exist with a LATC, but any proposals would also need to be approved by the Board of Directors. This could result in potential conflict between the commercial viability for the company and ECC's aspirations, which would ultimately impact on deliverability. A summary of the governance for each option is shown in the table below:



5 Evaluation:

- 5.1 To arrive at the recommended approach, officers from Finance, Organisation Development and People (ODP), Procurement, Service Operations, Technical and Service Strategy teams evaluated the viable options using qualitative and quantitative techniques.
- 5.1 **Qualitative Assessment:** Officers carried out a qualitative assessment of the 2 options: Option A: In-house and Option B: LATC.
- 5.2 The options were scored based on feedback from all departments using the following criteria:
- Future financial savings
 - Customer service
 - Control / Governance
 - Continuous improvement
 - Deliverability
 - Risk management
 - Market

- 5.3 Following scoring of the options against a set list of criteria by individual officers, scoring was undertaken collectively to arrive at a single set of scores and supporting rationale evidence. A summary of the results of the consensus options scoring are set out in Table 2.

Table 2: Collective Scoring Summary

Model	Score (out of 70)
Option A: In House	52
Option B: Local Authority Trading Company	48

- 5.4 A summary of the results taken from the qualitative assessment is outlined below in Table 3. This concluded that Option A: In-house delivery model was the most advantageous from a quality perspective: scoring higher than Option B in terms of control/governance, customer service and continuous improvement. It also scored well in respect of deliverability and risk management. However, Option A scored slightly lower on future financial savings and market due to the additional costs of allowing staff access to the LGPS. In order to mitigate against these and other risks identified during the development of the options, a risk register has been established and a copy can be found in Table 4 of this document.

Table 3: Quality Scoring Summary

	Option A (In-house)	
Future financial efficiency	7	Longer term efficiencies over the 7-year model, as most set up costs will be a one-cost. LGPS access for staff increases future cost, but this option would eliminate further procurement costs and greater control provides opportunities to deliver savings from increased waste diversion and improve overall efficiency.
Customer service	7	Opportunity to improve customer service through direct employment of staff and ensuring that they embrace ECCs organisational behaviours
Control / Governance	9	Control over staff provides significant ability to change services and delivery methods to ensure that ECC can adapt to market and residual waste disposal uncertainty. Decision making and implementation of proposals would be quicker with no additional layers of governance, so Members and officers can steer direction of the service.
Continuous improvement	8	Improvements will need to link to ECC's growth agenda and capital investment plans. Without private contractor or governance barriers any invest to save initiatives would be easier to implement, particularly focusing on establishment of waste diversion initiatives, reuse activities and improved social value.
Deliverability	8	All existing staff would transfer into ECC under TUPE arrangements, which provides continuity of service. Future recruitment would need to focus on bringing in staff with direct operational delivery experience and support from ODP, Legal, Health and Safety and Finance has already been modelled for under this option.
Risk management	6	Market risk is the same for both options, but private contractors have already stated that they would not be prepared to take these risks and would pass these back to the authority. Other risks surrounding Health and Safety (H&S) and People would be additional factors to consider, but with adequate ODP Support and good H&S policies and procedures these risks can be mitigated.
Market	7	LGPS access for staff would be a risk for future re-procurement but going back out to the market would attract contractor profit margins and there is already reduced market competition, as well as volatile market conditions. ECC's short to medium term legislative and disposal uncertainty mean that short to medium term procurement is unlikely. There is potential that the service could form part of a longer term integrated disposal contract, but this would be at least 5 years away depending on the outcome of Tovi and any pension liabilities would be more diluted into a bigger contract costs and spread over a longer term contract.
Overall Score	52	

Option B (Local Authority Trading Company)		
Evaluation Criteria	Score	Rationale
Future financial efficiency	8	Ongoing support costs reduce the level of efficiencies that can be delivered from the operational model, but savings in the costs of pension contributions offset this. Extra layer of governance would make implementing savings initiatives more difficult and the company would need to remain commercially viable. Borrowing costs would be higher than ECC rates to ensure that the company is operating within the parameters of providing subsidies to corporate entities (previously known as state aid)
Customer service	7	Values and behaviours for staff would need to be established to ensure customer service levels are improved and a key objective for the LATC would need to be customer satisfaction.
Control / Governance	7	Governance for LATC would create an extra barrier to making changes to the service and control over staff or recycling performance. Objectives for a LATC would need to ensure full flexibility for service changes and the Board Members would need to ensure any changes do not adversely affect the company's financial performance.
Continuous improvement	7	Improvement should be built into the company's business plan, but this may present difficulties where the commercial aspirations of the company and ECC need for changes do not align. Any improvement initiatives would need to be submitted by ECC to the Board for approval, which again creates an additional layer for decision making. Conversely any LATC driven changes would need Cabinet approval.
Deliverability	6	The set-up of the LATC would need to ensure full integration with ECC's governance and support systems. This would take time to establish and presents a significant risk to overall project deliverability. For example, Essex Housing has taken over two years to get to its current position.
Risk management	5	A significant risk for the LATC would be deliverability in the required timescales. The lack of key drivers does create uncertainty as to whether the cost and time for setting up a new company will generate justifiable benefits. Other risks surrounding TUPE are same as the inhouse model. However, Directors of the company would take on private liability for corporate responsibilities that would need to be insured. The LATC would also be more prone to changes in business and taxation rules.
Market	8	The LATC would mean lower costs if ECC decided to put the service back out to the market in the future, due to lower staff pension contribution costs, but contractor profit margins and the same market uncertainties still make any procurement in the short to medium term unlikely.
Overall Score	48	

- 5.5 The main weaknesses of Option B are the costs and risks surrounding setting up a new company. There is also insufficient time to ensure that the company is established to provide the service from April 2022. The additional layer of governance that would be introduced to implement any proposals are also a key consideration as the company would need to ensure that any changes were commercially viable.
- 5.6 The LATC has limited commercial drivers as it would struggle to compete outside ECC due to the profit margins that would need to be applied. This would make costs equivalent to other companies in the sector and other local authorities would be unlikely to choose an inexperienced company over more established providers. The only remaining driver is the saving that would be achieved from reduced pension contributions, if the service was re-procured in the future, but officers do not envisage the market changing in the short to medium term.
- 5.7 One of the most apparent risks of both options relates to the potential transfer of staff from the current Contractor to ECC under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) and the associated costs. Such staff transfers may lead to increases in employer liability costs. While the existing contract does require the Contractor to provide ECC with specified employee information to ECC when requested, the final employee liability information may not be received until 28 days prior to transfer (the timeframe specified by TUPE).
- 5.8 Option A brings several important potential upsides including an improved image for the frontline service with all staff being fully embedded into ECC. Direct employment enables ECC to offer access to the LGPS and Essex Reward Gateway to motivate staff to focus on customer services, waste diversion and delivering innovation. Service changes could be implemented quickly without barriers and increased flexibility would allow ECC to work more holistically with other departments and partners to explore potential savings to the taxpayer.
- 5.9 Option A achieved the highest overall quality score of 52 out of a potential 70 quality points.
- 5.10 **Quantitative Evaluation**
- 5.10.1 The quantitative assessment provides an evaluation to assist the operational and value for money decision.
- 5.10.2 It considers an in-house run service using public capital against the use of a LATC, which would require borrowing at market interest rates to ensure the company is operating within the parameters of providing subsidies to corporate entities (previously known as state aid).
- 5.10.3 The model to review the delivery options has been designed to meet the following approaches:

- to ensure that the simplicity of approach reflects the early point at which this analysis takes place;
- to focus ECC's attention on the underlying assumptions and the interplay with qualitative judgement;
- to mitigate future costs and ensure that ownership of the decision lies with ECC;
- follows the principles in the Green Book to introduce consistency across the public sector and improve the underlying evidence base.

5.10.4 A summary of the quantitative evaluation and the results can be found in the Confidential Appendix: Table 1.

6 Risk Mitigation

Both options carry several risks for ECC. Table 4 outlines the key risks identified and the proposals to reduce the risks to acceptable levels.

Table 4: Risk Profile

Option	Risk	Probability	Mitigation
A	Increased cost in respect of natural turnover of staff transferring into ECC, where Essex Terms and Conditions would apply to any new recruits.	High	Worst case scenario costs have been included in the financial model for the in-house model.
A & B	If the Authority decided to put the service back out to market in the future any changes to employment terms resulting in elevated pension costs, salary or other staff-related costs could increase the cost of the service.	High	Accept. Market analysis shows that competition in the market has reduced and due to a change in focus for suppliers, re-procurement in the short and medium term is unlikely.
A & B	Local Government Reform leads to changes in the Essex Waste Disposal Authority organisation in	High	All future options are vulnerable to this risk. Option A facilitates full control over the service and labour force, which creates

Option	Risk	Probability	Mitigation
	terms of geographical scope and/or powers.		more opportunities in terms of integration.
B	Timescales to establish a new LATC represent a significant risk for the service implementation in April 2022	High	Accept. Additional resource would be required to mitigate this risk. However, this is difficult to quantify and even with this in place, there is no guarantee that the company would be ready.
A	Without sufficient internal resources the In-house Model would struggle to be delivered.	Medium	Resources for the management of this project have been identified alongside the wider waste transformation programme
A & B	RCHW service is highly visible and therefore any employee relations matters which arise could cause reputational damage	Medium	<p>Use ODP expertise to ensure early engagement with staff and dialogue to understand issues.</p> <p>Financial modelling for both options includes Human Resources to support the business directly.</p> <p>Further employee matters and considerations are highlighted in paragraph 7 below</p>
A & B	Pending changes in national legislation for example; to issues such as extending to issues such as extended waste producer responsibility	Medium	Flexibility built into In-house model (Option A) to allows efficient solutions to support changes, whereas governance barriers would exist for the LATC

Option	Risk	Probability	Mitigation
A & B	Covid 19 and Brexit may impact International Supplies requiring longer lead in times for mobilisation.	Medium /High	This may impact on the procurements required for Option A. The project team are closely monitoring lead times and will explore leasing or bring procurement forward if the situation requires.

7 Employment and People Implications

- 7.1 For both options there are a number of significant employment and people implications to ensure compliance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 Regulations, and to ensure risks and opportunities are effectively managed.
- 7.2 ECC would need to inform the appropriate representatives of the affected employees of the transfer of any measures proposed and would need to consult on any proposed measures. Certain specified information would need to be provided to the representatives long enough before the transfer to enable the outgoing employer to consult with them about it.
- 7.3 If there are any changes or proposals for changes following the transfer, these "measures" would have to be discussed with the representatives of the affected employees. The incoming employer is required to provide the outgoing employer with information on proposed measures to allow the outgoing employer to comply with its duty to inform and consult. There is no set timetable for consultation, but it must be in "good time" before the transfer, and the larger the transaction and the more staff affected, the longer the timetable will need to be.
- 7.4 TUPE provides that all the transferor's rights, powers, duties and liabilities under or in connection with the transferring employees' contracts of employment are transferred to the transferee. This grants rights under the contract of employment, statutory rights and continuity of employment and includes employees' rights to bring a claim against their employer for unfair dismissal, redundancy or discrimination, unpaid wages, bonuses or holidays and personal injury claims. Any dismissals will be automatically unfair, where the sole or principal reason for the dismissal is the transfer. Dismissals may not be automatically unfair where the dismissal is for an ETO reason requiring a change in the workforce. This ETO defence is narrow in scope and must entail changes in the workforce, e.g. job functions, workforce numbers.
- 7.5 Conceptual designs have been completed in terms of what (if any) additional roles would be required to support the recommendation. Although any final recommendations would need greater detail in terms of any current team structures, this detail may not be available until the due diligence stage (far

closer to the actual TUPE date). This could present a risk around the amount of time to validate and progress any new posts before individuals would formally TUPE in. Financial modelling has included two full time employees for ODP to support the implementation of the TUPE and service integration.

- 7.6 The natural turnover of staff following insourcing may result in inconsistent terms and conditions within the service, that could result in possible equity claims and impact on how attractive this service would be to market, should there be a desire to spin out into a contractual model in future. The insourcing of this workforce could make any future procurement more expensive, as the workforce would be offered access to the LGPS and any new staff would be employed on Essex Pay.
- 7.7 Information and consultation failures can result in joint and several liability between the outgoing and incoming employers, although the contract governing the transfer can cater for apportionment of liability here. A failure to comply with TUPE could expose ECC to potentially large claims.
- 7.8 Whilst the staff costs associated with the both options have been modelled, as we are not yet in due diligence, we cannot be clear on the current or future liabilities, which remains a risk. This includes costs associated with contractual terms which are both written and implied. There could also be an additional cost to integrate this workforce and their terms onto our current systems, previous changes have come with considerable cost and have had long lead in times, however this detail cannot be provided until further information is available.

Forward Plan Ref No. FP/941/01/21

Report title: Decisions taken by or in consultation with Cabinet Members	
Report author: Secretary to the Cabinet	
Date: 16 February 2021	For: Information
Enquiries to: Emma Tombs, Democratic Services Manager, 03330 322709	
County Divisions affected: All Essex	

The following decisions have been taken by or in consultation with Cabinet Members since the last meeting of the Cabinet:

Leader of the Council

- FP/944/01/21** Temporary body storage facility for the management of excess deaths due to COVID-19
- *FP/942/01/21** Approval for lateral flow test rollout process
- FP/971/02/21** Award of Capital Grant to United Seevic Palmers (USP) College Centre of Excellence for Digital Technologies and Immersive Learning

Exempt from call in

- FP/957/01/21** Funding for Adult Social Care: COVID 19 Response
- *FP/943/01/21** Provision of Designated Isolation Settings for COVID-19

Deputy Leader & Cabinet Member for Infrastructure

- FP/948/01/21** Proposed A414 Maldon Road/Wycke Hill, Woodham Mortimer/Maldon – 40mph and 50mph Speed Limit
- FP/949/01/21** The Essex County Council (A1060 Stortford Road, Leaden Roding) (Restricted Roads & 30mph Speed Limit) - Objections
- FP/953/01/21** Proposed 40mph Buffer on Maldon Road, Tiptree
- FP/959/01/21** Temporary closure of Chelmer Valley Park and Ride
- FP/961/01/21** Implementation of 40mph Speed Limit, Hawkins Hill/Finchingfield Road, Little Sampford
- FP/962/01/21** Proposed 40mph Speed Limit Buffer, B1383 Cambridge Road Quendon and Newport, Uttlesford.

FP/969/02/21	Temporary closure of Colchester and Sandon Park and Ride
FP/973/02/21	Zebra Crossing, Lawn Lane, Chelmsford
FP/974/02/21	Zebra Crossing, Springfield Green, Chelmsford

Cabinet Member for Customer, Corporate, Culture and Communities

*FP/864/11/20	Re-procurement of Vehicle Framework for the Car Provision Scheme
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Cabinet Member for Economic Development

*FP/530/09/19	Land for Housing Development in Colchester
FP/967/02/21	Shire Hall, Chelmsford - extension of time for Agreement for Lease

Cabinet Member for Education and Skills

FP/946/01/21	Appointment and Re-Appointment of School Governors by Essex LA - Schedule 363
FP/958/01/21	Appointment and Re-Appointment of School Governors by Essex LA - Schedule 364
*FP/900/12/20	Concessionary Fares Settlement 2021/22
FP/975/02/21	Appointment and Re-Appointment of School Governors by Essex LA - Schedule 365
*FP/870/11/20	Adoption of schemes to co-ordinate pupil admissions to primary and secondary schools in 2022-2023
*FP/871/11/20	Determination of admission arrangements for community and voluntary controlled schools 2022-2023

Exempt from call in

FP/970/02/21	Coronavirus Outbreak – payments to operators for local bus and home to school contracted services
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Cabinet Member for Environment and Climate Change Action

***FP/914/12/20** Integrated Waste Handling Service Delivery – Bulk Waste Haulage Procurement

Cabinet Member for Finance

FP/945/01/21 Digital Accessibility Compliance Project – Policy and Funding

FP/950/01/21 Addition to the Capital Programme for the Green Homes Grant Local Authority Delivery (GHG LAD) scheme Phase 1a

FP/951/01/21 Drawdown from Health and Safety Reserve: works at Essex Country Parks

FP/952/01/21 WoW Programme – Release of funding

***FP/898/11/20** Drawdown from Climate Action Reserve: Environment & Climate Action Programme

FP/960/01/21 Amendment to the Procurement Policy and Procedures Document to Include Social Value Considerations and to Remove the Existing Price/Quality Weighting

Cabinet Member for Health and Adult Social Care

FP/955/01/21 Transforming Community Care (Connect Programme) – Award of a Contract

FP/965/01/21 Decision to Award for Supported Living Framework 2020

*** Key Decisions 9**

Number exempted from call in: 3