

Forward Plan reference number: FP/254/09/23

<b>Report title: Essex Housing Development LLP Annual Delivery Plan 2024/25</b>	
<b>Report to:</b> Cabinet	
<b>Report author:</b> Councillor Lee Scott, Cabinet Member for Planning a Growing Economy	
<b>Date:</b> 27 February 2024	<b>For:</b> Decision
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<b>County Divisions affected:</b> 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This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.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. Everyone's Essex

1.1 Essex Housing is Essex County Council's (ECC) in-house development arm which works with public sector partners across Essex. Essex Housing's purpose is to help address housing need throughout the county by building high quality specialist, private and affordable homes. Essex Housing delivers schemes through ECC as well as the Essex Housing Development LLP. This report seeks approval of Essex Housing's Annual Delivery Plan for 2024/25.

1.2 Essex Housing supports the strategic aims of Everyone's Essex by delivering more new homes and communities as part of ECC's ambition for 'a strong, inclusive and sustainable economy' and contributes to the commitment towards 'future growth and investment'. Essex Housing maximises the impact of public sector spend within the county by generating surpluses for reinvestment and creating new opportunities to achieve social value through development. Essex Housing:

- supports **the economy** by creating new jobs and working with local contractors
- benefits **the environment** by developing in a sensitive way and including sustainable measures on sites such as electric vehicle charging, solar panels and heat pumps as well as a scheme of net zero homes.
- supports **children and families** by providing good quality housing in an appropriate mix of type and tenure, central to giving children the best start in life.
- promotes **health, care and wellbeing** for all residents by providing good quality homes and neighbourhoods. Essex Housing promotes the wellbeing of some of our most vulnerable residents by creating homes

that enable them to live more independently.

## **2 Recommendations**

- 2.1 Agree the Essex Housing Annual Delivery Plan 2024/25 as set out in the confidential appendix.
- 2.2 Agree to increase the Working Capital Loan facility provided by ECC to Essex Housing Development LLP from £5m to £12m with immediate effect.
- 2.3 Note that further formal decisions will continue need to be taken for each site for development, financing and land disposal to Essex Housing Development LLP for 2024/25 as set out in paragraph 3.10.
- 2.4 Agree that all project specific loan offers made to the LLP will expire within six months of being made and will have to be renewed after that time.

## **3 Background and Proposal**

### **Background**

- 3.1 Essex County Council established Essex Housing in 2016 to work with public sector partners throughout Essex to identify and bring forward land and assets for development. It is now six years into that journey and has established a significant and exciting development programme that will deliver great quality, sustainable homes and create fantastic places to live, while reinvesting returns into important public services and improved outcomes for the residents of Essex.
- 3.2 Essex Housing works with public sector partners across the county to develop land for the benefit of Essex, in order to help address general, specialist and affordable housing need. By developing with a social conscience, Essex Housing enhances important assets, putting design, quality and sustainability at the forefront of what it does and shaping places that Essex can be truly proud of, all while improving outcomes for residents, reducing the burden on the taxpayer, generating capital receipts and delivering revenue benefits.

### **Essex Housing Social Value**

- 3.3 Taking a social-value first approach to development allows Essex Housing to include measures that contribute to carbon reduction, such as electric car charging points, cycle storage, photovoltaic panels, high levels of insulation and air source heat pumps to improve efficiency and reduce utility costs. It also means that Essex Housing can play a role in ECC's equalities agenda by providing housing to meet the needs of some of our most vulnerable residents. For example, Essex Housing supports Adult Social Care in the delivery of ECC's Independent Living for Older People schemes, as well as developing schemes that include apartments for independent living for adults with

disabilities.

- 3.4 Social value will be evaluated in all construction tenders within the annual delivery plan. Examples of social value that can be committed to include a percentage of local people employed on contract and total amount spent with local SMEs.
- 3.5 Essex Housing has completed a number of successful developments on behalf of ECC and also worked with a range of partners including local authorities, the NHS, Essex Police and Essex County Fire and Rescue Service. It has been recognised nationally for its innovative approach, winning two awards in 2022; 'Best Development Team – rural/suburban' at the Inside Housing Development Awards 2022 and 'Homebuilder of the Year - South' at the UK Housing Awards 2022. Essex Housing were also winner of the 'Meeting Housing Need' Category at the Essex Housing Awards 2023.

### **Essex Housing Development Limited Liability Partnership**

- 3.6 In July 2020, ECC Cabinet agreed to the establishment of a limited liability partnership, Essex Housing Development LLP to carry out development activity. ECC is a member and designated member with a 99% interest and Seax Trading Limited, a company 100% owned by ECC, is a member and designated member with a 1% interest. Surpluses generated from the Development LLP activities are to be returned to LLP members (ECC and Seax Trading Limited).
- 3.7 As part of the Essex Housing Optimisation Project Cabinet Report, a five-year Business Plan was approved by Cabinet to outline the LLP's long-term objectives. This set out the blueprint to deliver an ambitious development programme, by building upon the work to date of the existing Essex Housing model. The purpose of the LLP is to further ECC's strategic aims and to deliver new housing and economic growth for the benefit of the area or persons resident or present in its area. Essex Housing contributes to the following priorities set out in the Council's Organisation Strategy:
- Enable more vulnerable adults to live independent of social care
  - Help to secure stronger, safer and more neighbourly communities
  - Help secure sustainable development and protect the environment
  - Facilitate growing communities and new homes
  - Limit cost and drive growth in revenue
- 3.8 Each year, an Annual Delivery Plan is required to set out the development programme, including indicative capital expenditure for the LLP over the upcoming year. The Annual Delivery Plan does not authorise any land transfer or any scheme finance to be loaned to the LLP. The sites that are listed within the Annual Delivery Plan are existing LLP schemes and new schemes have not been added into the overall programme through this report.
- 3.9 It is also important to note that some schemes will be developed by the Council not the LLP, for example some schemes which involve developing a site where

ECC will retain ownership, or provision of Independent Living for Older People schemes. The Annual Delivery Plan clearly lists these schemes and outlines where they remain with ECC. These ECC schemes are not included within the financial summary tables within the Annual Delivery Plan.

- 3.10 Where a scheme on ECC owned land is identified in the Annual Delivery Plan is to be progressed by the LLP, the following steps will be undertaken:
- 3.10.1 The LLP Board will consider each scheme based on a set of criteria established by ECC as set out in the Annual Delivery Plan;
- 3.10.2 Where schemes are approved for exploration, Essex Housing will undertake design, secure planning, undertake some site clearance activity and procure a building contractor (but not award the contract). If a scheme proves not to be viable then it can be abandoned at any time;
- 3.10.3 Once the preliminary work has been completed, the LLP Board will consider the scheme and whether or not to ask the Council for funding and for the land to be transferred (if in ECC's ownership) so that the scheme can proceed.
- 3.10.4 If the LLP Board agree to this, then ECC will decide whether or not to sell the land to the LLP (if in ECC ownership) and advance money. These are two separate decisions and will be taken by the relevant Cabinet Members for Finance and Property or by the Cabinet in accordance with the constitution. The land disposal price will be determined by ECC through a formal red book valuation.
- 3.10.5 ECC has a range of commissioning requirements including, but not limited to specialist housing to meet social care needs and enhanced build standards to meet ECC's objectives with regards to carbon reduction and energy efficiency as well as the Essex Design Guide. These requirements are often over and above what would normally be provided through general needs housing schemes and can increase costs as well as reduce sales values. When ECC requirements impact on scheme viability the LLP will ask ECC to dispose of land at below market value to ensure ECC's commissioning requirements are financially viable for the LLP to deliver.
- 3.10.6 Once the land has been transferred and finance is in place the LLP can sign the construction contract if approved by the LLP Board.
- 3.11 In 2023/24, the Essex Housing Development LLP programme ambition was based on selling 44 units (including seeking to advance work on Purford Green) with financial modelling based on 26 units. The following table below summarises the forecast performance for 2023/24 against the ambitions in the previous Annual Delivery Plan: Essex Housing Development LLP has met its forecast for live schemes in construction for 2023/2024 and exceeded its forecast for units sold in year 2023/2024. Planning has not been obtained for 5 of the 6 schemes in the pipeline however it is anticipated that planning will be obtained in 2024/2025 and the revised planning determination dates do not impact the projected timelines for delivery of the schemes.

Activity*	2023/24 (ADP forecast)	2023/24 (Current Forecast)	Variance
Units sold in year	26	28	2
Live schemes in construction phase during the year	3 (181 units)	3 (181 units)	0 (0)
Pipeline schemes with planning determination expected during the year	6 (356 units)	1 (47)	-5 (-309)

\* This table does not include non-LLP schemes, ie. Direct delivery through Essex County Council by the Essex Housing team.

3.12 Essex Housing's proposed key performance measures for 2024/25 are set out below:

*Key performance measures	2024/25
Units sold in year	54
Live schemes in construction phase during the year	2 (155 units)
Pipeline schemes with planning determination expected during the year	5 (309 units)

\* This table does not include non-LLP schemes, ie. Direct delivery through Essex County Council by the Essex Housing team.

3.13 The 2024/25 financial forecast in the 24/25 Annual Delivery Plan's profit and loss account shows a surplus of £1.2m. This is driven from in year sales and grant income of £22.3m and costs including borrowing and overheads of £21.1m. This is linked to the forecast delivery outlined in the table above.

### **Increase in ECCs Working Capital Loan facility from £5m to £12m**

3.14 In December 2020, ECC agreed a Cabinet decision regarding the detail of loan agreements to the LLP (FP/820/09/20). The Cabinet paper outlined that ECC would provide funding to the Development LLP via loan agreements, on a project-by-project basis and subject to an approved CMA and supporting Business Case.

3.15 In addition, the December 2020 paper outlined that EHDLLP will require a working capital loan (WCL) from ECC to enable it to initially operate at a loss and have a cashflow and work up schemes so that project specific funding can be sought. This WCL funding was for up to £5m. Cashflow management support provided to the LLP would then keep the accounts in a broadly neutral position each day.

- 3.16 A review of the cashflow forecast alongside the development of the 24/25 ADP has identified where the peak points are forecast to be within the next year which has identified a request from the LLP for ECC to reconsider the current limit. The LLP would like the limit to be increased from £5m to £12m because they think that their indebtedness will go up by this amount.
- 3.17 Although the LLP has managed to keep within £5m up to now, it is making increased use of the loan facility as its turnover increases and as more schemes are in development and delivery. There has also been a technical change to when the LLP accesses development loans which has increased the need for the working capital loan.
- 3.18 A review of the cashflow forecast has identified the peak borrowing points within the next 12 month period. The request to increase the WCL limit to £12m is based upon the forecast scheme expenditure for 2024/25. It is also proposed that this facility be reviewed on an annual basis in line with each Annual Delivery Plan, with a review to be undertaken for the 25/26 period in approximately 12 months' time. The limit will therefore be set by Cabinet in future years. Clearly this increase does increase ECC's exposure to loss if the LLP fails.

#### **Length of Development Loan Offers**

- 3.19 It has become apparent during 2023/24 that the decisions taken by the Cabinet Member to authorise development loans for particular schemes leaves the offer open indefinitely. This means that the LLP can start development many years after funding is agreed when the figures in the original business case may no longer be correct. It is therefore proposed that offers of development loan should expire after six months. This gives the opportunity for the Council to review schemes shortly before they commence and based on up to date information. This shouldn't need to extra work because the LLP can delay asking for a development loan until it is ready to proceed.

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

- 4.1 This report links to the following aims in the Essex Vision
- 4.1.1 Enjoy life into old age
  - 4.1.2 Provide an equal foundation for every child
  - 4.1.3 Strengthen communities through participation
  - 4.1.4 Develop our County sustainably
  - 4.1.5 Connect us to each other and the world
  - 4.1.6 Share prosperity with everyone
- 4.2 Approving the recommendations in this report will have a positive impact on the Council's ambition to be net carbon neutral by 2030. Essex Housing looks to exceed legal requirements for sustainability in all of its developments. All private sale schemes delivered to date include photovoltaic panels, insulation above building regulation requirements, electric vehicle charging points and

ample cycle storage to encourage sustainable travel. Essex Housing is continually looking to build on this further and is bringing forward schemes with air source heat pumps, as well as considering how we can best ensure biodiversity is unaffected, or even improved on schemes. The residential units at Essex Housing's schemes at Shenfield Library and Purford Green, both of which are now in construction, are designed to achieve an EPC 'A' rating and a carbon neutral pilot scheme is also currently being designed ready for planning submission. It is expected that the Future Home Standard will launch in 2025 and under this standard CO2 emissions will be at least 75% lower than homes built today. Essex Housing will continue to seek to exceed these standards wherever it can viably do so.

4.3 This report links to the following strategic priorities in ECC's Organisational Strategy 'Everyone's Essex': A strong, inclusive and sustainable economy:

4.3.1 Infrastructure: we will deliver and maintain high quality infrastructure to improve opportunities for people living in Essex as well as supporting a growing economy and the delivery of new homes and communities by investing in the region of £1bn by the end of this Council.

4.3.2 Future growth and investment: we will help grow existing businesses and the economic sectors of the future in Essex, including the arts, and secure high levels of new investment by working with partners to promote the County, by creating the conditions for growth and by maximising the impact of public sector spend within the county.

## 5 Options

### 5.1 Option One - Agree the recommendations:

**5.1.1 Annual Delivery Plan 2024/25** - This option would provide Essex Housing Development LLP with the indicative capital requirements to deliver the development programme and continue the activity to get more sites into construction and planning as set out in the Annual Delivery Plan in the confidential appendix. This will also further ECC's objectives as set out in section 4 of this report.

**5.1.2 Increase the Working Capital Loan from £5m to £12m** – This option would ensure that Essex Housing LLP has sufficient working capital to undertake the activities agreed in the Annual Delivery Plan 2024/25.

### 5.2 Option Two – Do not agree the recommendations:

**5.2.1 Annual Delivery Plan 2024/25** - This option would not maximise the potential benefits to our communities of the Essex Housing model. Furthermore, MTRS revenue benefits would not be realised.

**5.2.2 Do not increase the WCL to more than £5m** – This would limit the funding available to the LLP. Forecasts show that this would place delivery at risk because the LLP expects to need to borrow more than this and it would need to

either proceed at a smaller scale or risk becoming insolvent.

## 6 Issues for Consideration

### 6.1 Financial implications

6.1.1 The Annual Delivery Plan is required to set out indicative capital expenditure and the development programme for the LLP over the upcoming year.

6.1.2 The LLP is funded via working capital and development loan facilities from ECC. Funding of any future capital expenditure for the LLP will increase the Council's Capital Financing Requirement from borrowing. Funding received from the council will be repaid by capital receipts generated by the LLP following the sale of properties.

6.1.3 The detail of the capital and revenue budget profiling is contained in the confidential appendix to this document.

6.1.4 The total LLP loan requirement for 2024/25 to 2028/29 compared to the 2023/24 Annual Delivery Plan for the same period is set out below.

	EHDLLP Loan Requirement (£m)					
	2024/25	2025/26	2026/27	2027/28	2028/29	5 Year Total
2024/25 ADP	12.3	33.8	13.9	1.6	0.0	61.6
2023/24 ADP	34.3	39.8	31.5	11.2		
Variance	(22.0)	(5.9)	(17.6)	(9.6)		

6.1.5 Previously the amount included in the capital programme was the total forecast capital expenditure for each scheme, for the 2024/25 budget and going forward the amount included will be the net requirement for a loan taking into consideration the income that is expected from the scheme reducing the loan requirement.

6.1.6 The forecast surplus for each financial year has now been incorporated into the Essex County Council 2024/25 Medium term resource strategy (MTRS). The payment of the dividends will form part of the cashflow position of the LLP.

6.1.7 In terms of project financing and associated risk to ECC:

6.1.8 ECC is expected to receive income as a result of providing loans to the LLP. ECC borrow at Public Works Loan Board rates which are lower than the rate at which ECC lends to the LLP. Any margin between the two rates is realised by ECC as an income stream.

6.1.9 In addition, the costs of any scheme that does not achieve planning consent will need to be borne by the LLP. This could place additional financial pressure on ECC in the longer term as other schemes will need to compensate and loan repayments may take longer.



6.1.10 An increase to the WCL facility will create a greater financial risk to ECC, in the event that the LLP are unable to repay the balance of the WCL this will be a cost to ECC.

## 6.2 Legal implications

6.2.1 This business plan covers the activities of Essex Housing LLP which is a separate legal entity from Essex County Council.

6.2.2 The members of the LLP are ECC (99%) and Seax Trading Limited (1%). Seax Trading is itself a subsidiary of ECC. The LLP board is made up of officers along with Cllr Ray Gooding as Chairman and an independent non-executive Board Member.

6.2.3 The LLP does not employ any staff. The people working for the LLP are employed by ECC.

6.2.4 Development projects are undertaken by the LLP if the site will be disposed of in its entirety. They are undertaken by ECC if the development involves an ECC building which will be retained, e.g. the redevelopment of a library site to include housing. The percentage of time that employees spent on LLP activity is charged to the LLP.

6.2.5 The LLP is funded through borrowing from ECC. ECC is exposed to risks by the LLP. These are:

- The LLP fails to repay money borrowed from ECC. ECC charges a premium interest rate as compensation for this risk. It should be noted that the more the LLP borrows, the greater the risk
- The LLP becomes insolvent and has insufficient assets to pay off its debts. Whilst the LLP operates so as to try to ensure it has a net positive balance sheet, there are risks, because at any time it maintains an inventory of schemes and there are always unsold properties, although it is understood that to date the LLP has managed to sell property.
- The LLP is therefore at risk of a major downturn in the housing market meaning that it would be unable to sell properties at all or for anything like as much as planned. The housing market in the UK is cyclical but clearly has long term trends which themselves can vary.

6.2.6 A governance review has been undertaken of Essex Housing as part of the commitment in annual governance statements. We assessed Essex Housing against the standards published by Local Partnerships. The standards themselves were refreshed in 2023. The new standards place greater emphasis on the Council's management of the LLP and the importance of setting key performance indicators.

6.2.7 If the Cabinet approves the plan, it is important that ECC closely measures and monitors the performance of the LLP, particularly as the amount of money owed by the LLP to ECC is likely to significantly increase during 2024/25. ECC is not liable for the LLP's debts if it becomes insolvent, but the significant amounts of money ECC has loaned to the LLP may be lost.

## **7 Equality and Diversity Considerations**

- 7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3 The Equalities Comprehensive Impact Assessment 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 Confidential Appendix – Essex Housing Annual Delivery Plan 2024/25
- 8.2 Equalities Comprehensive Impact Assessment

## **9 List of Background papers**

- 9.1 Essex Housing Optimisation Project Cabinet Report
- 9.2 Essex Housing Five Year Business Plan 2020-2025