

**Forward Plan reference number:** FP/580/12/22

<b>Report title: Essex Housing Development LLP Annual Delivery Plan 2023/24</b>	
<b>Report to:</b> Cabinet	
<b>Report author:</b> Councillor Lesley Wagland, Cabinet Member for Economic Renewal, Infrastructure and Planning	
<b>Date:</b> 21 March 2023	<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This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.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 2023/24.
- 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:
  - 1.2.1 supports **the economy** by creating new jobs and working with local contractors
  - 1.2.2 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.
  - 1.2.3 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.
  - 1.2.4 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 2023/24 contained in the Confidential Appendix.
- 2.2 Note that further formal decisions will need to be taken for each site for development, financing and land disposal to Essex Housing Development LLP for 2023/24 as set out in paragraph 3.10.

## **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 to improve efficiency and reduce utility costs and air source heat pumps. 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 can include areas such as 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, most recently through 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 has also been cited in a number of best practice publications and was shortlisted for several other awards in the last year.

### **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.

#### **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 Annual Delivery Plan 2023/24

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.

### 5.2 Option 2 – do nothing

This option would not maximise the potential benefits to our communities of the Essex Housing model. Furthermore, MTRS revenue benefits would not be realised.

## 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. The total revised LLP Annual Delivery Plan 2023/24 to 2027/28 compared to the current Annual Delivery Plan from 2022/23 to 2026/27 is set out below. Comparisons are from 2023/24 onwards only.

	Capital Programme Expenditure (£'m)					5 Year Total
	2023/24	2024/25	2025/26	2026/27	2027/28	
2023/24 ADP	20.6	34.3	39.8	31.5	11.2	137.4
2022/23 ADP	33.5	40.3	11.7	6.0		
Variance	12.9	6.0	(28.0)	(25.6)		

6.1.4 The figures included in the capital programme as presented in the Everyone's Essex Annual Plan and Budget 2023/24 differ to the 2023/24 ADP due to indexation, updated delivery timelines and additional risk being added to the figures since the budget figures were set. The capital programme will be aligned to the 2023/24 ADP as part of the provisional outturn process.

6.1.5 Through the activities driven by the LLP, the intention is to obtain planning permissions at the earliest opportunity, subject to development risks associated with any individual scheme.

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

6.1.7 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.

6.1.8 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.



## 6.2 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
- 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 the LLP has always managed to sell properties well. 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. The projections on page 24 of the business plan show that the LLP is projected to have a balance sheet deficit for 2023/24.
- Where ECC has commissioning requirements for a site, ECC typically transfers the LLP land at an undervalue. By doing this it enables the LLP to build to a higher standard and meet ECC's site specific requirements. By allowing the LLP to develop ECC indirectly receives developer profit and the interest on loans, but the LLP could also pay a higher value for the land if it built to the same standards as commercial developers or did not include any specialist housing within its development programme.

6.2.6 Transferring land at an undervalue is potentially a subsidy covered by the Subsidy Control Act 2022. However, Essex Housing LLP discharges a public task on behalf of the County Council by developing housing to meet a market shortage in Essex. On that basis it is considered unlikely to be a subsidy.

## **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 2023/24
- 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