

Forward Plan reference number: FP/544/10/19

Report title: Housing Infrastructure Fund – Contract for Beaulieu Park Station and Chelmsford North East Bypass	
Report to: Cabinet	
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Date: 16 March 2021	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 To seek approval to enter into a grant funding agreement with Homes England before the 31 March 2021 as part of the Housing Infrastructure Fund (HIF) to secure the release of a grant of £217.861mm to enable ECC to continue with infrastructure works to sponsor and underwrite the development of Beaulieu Park Station and the Chelmsford North East Bypass (the “Project”).
- 1.2 To seek approval to enter into agreements with Chelmsford City Council (CCC) and Braintree District Council (BDC) in relation to the relevant terms of the GDA that CCC and BDC have involvement in delivering.

2. Recommendations

- 2.1 Agree to enter into a Grant Determination Agreement (GDA) with Homes England for £217.861m.
- 2.2 Agree that the Executive Director, Place and Public Health is authorised to agree terms with the Department of Transport (DfT) over the monitoring and evaluation of the DfT conditions that form Annexure 7 of the GDA in consultation with the Section 151 and Monitoring Officers and to ensure that the final terms do not materially change the risks to the Council from those set out in this report.
- 2.3 Agree that the Chief Executive writes to Braintree DC to urge it to progress negotiations with the County Council to formalise an agreement relating to the District functions of the HIF project and that Executive Director, Place and Public Health is authorised to agree terms with BDC regarding joint working arrangements for the delivery of the Project.
- 2.4 Agree to enter into an agreement with CCC of up to £5m for capital costs in relation to the City functions relating to the HIF project Agreement.

- 2.5 Agree to negotiate with BDC to enter into an agreement complying with the terms of the HIF project on terms approved by the Executive Director, Place and Public Health in consultation with the monitoring officer
- 2.6 Agree
- (a) the addition of £13.93m to the Capital Programme to be funded by prudential borrowing to allow the commitment within the GDA to be entered into subject to a requirement that this addition may not be spent on the Beaulieu Park scheme without a further cabinet decision to authorise the expenditure once value engineering has been completed; and
- (b) that the Executive Director, Place and Public Health undertake an immediate review of the capital programme to find savings of £13.93m to fund the £13.93m should it be required.
- 2.7 Agree the addition of £2.224m to the Capital Programme for Chelmsford North East Bypass to be fully funded by received S106 contributions.
- 2.8 Agree to the reprofiling of the capital programme allocations as set out in the table below:

	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	TOTAL
	£000	£000	£000	£000	£000	£000	£000	£000
Capital Programme Adjustments required								
Beaulieu Park Station	2,660	(216)	(1,766)	6,879	8,019	(3,227)	1,581	13,930
Chelmsford North East Bypass	(192)	(2,272)	(9,874)	12,338	2,224	-	-	2,224
Total Adjustments	2,468	(2,488)	(11,640)	19,217	10,243	(3,227)	1,581	16,155

- 2.9 Agree not to award any contract for the construction of the station or the bypass until
- (a) the terms of the associated agreement with the DFT referred to below have been agreed by the Executive Director, for Place and Public Health and he is satisfied that the final terms do not materially change the risks to the Council from those set out in this report;
- (b) the Executive Director, for Place and public health is satisfied that terms have been agreed for the acquisition of all land required for the bypass; and
- (c) the Executive Director, for Place and Public Health is satisfied that the station has been value engineered in the optimum way.

3. Summary of issue

- 3.1 The area to the north of Chelmsford is experiencing significant housing growth. Development within this area will see the construction of 14,109 new homes of which 807 had been built by March 2020. New housing means a larger population and a larger population means increased requirements for infrastructure. Whilst development can fund some infrastructure, the Government has introduced the Housing Investment Fund (HIF) to help ensure that major infrastructure is provided alongside development. However, the fund puts infrastructure delivery risk on the local authority. HIF is a government capital grant programme from the Ministry of Homes Communities and Local

Government (MHCLG) of up to £5.5 billion, which aims to help to deliver up to 100,000 new homes in England in the areas of greatest housing demand.

- 3.2 A call for expressions of interest for HIF funding was made by MHCLG in July 2017. ECC submitted four expressions of interest on 28 September 2017, and three were successful in moving to the next stage, including the bid for the Project. The Council developed a formal bid which was agreed by Cabinet in March 2019 and submitted to Homes England later that month. In August 2019, ECC were informed that the bid for the Project had been successful.
- 3.3 The Project will release sustainable housing growth in Essex. The grant funding will allow ECC to gain initial funding to develop infrastructure giving the market confidence to provide further investment and make more land available for development and future homes.
- 3.4 ECC has been collaborating with Chelmsford CC and Braintree DC on the bid and the Projects and there is strong local support for these projects from Braintree DC and Chelmsford CC and the relevant Essex MPs. The infrastructure provision would support local councils in the delivery of their Local Plan growth, as well as supporting key Government priorities to deliver housing and economic growth nationally. There are nine housing sites unlocked by the HIF infrastructure. Eight of these are in the city of Chelmsford, with one located in the Braintree District.
- 3.5 The nine housing sites supported by the HIF infrastructure are as follows:
- Beaulieu – 3,059 homes
 - Chelmsford Garden Community (3 sites) – 7,750 homes
 - Great Leighs (3 sites) – 1,100 homes
 - North Broomfield – 450 homes
 - Great Notley – 1,750 homes

These housing sites are contained within Chelmsford's administrative area apart from the Great Notley site which falls within Braintree District. CCC benefits from an adopted Local Plan and BDC is due to have its emerging Local Plan (Section 2) examined in July 2021. The housing sites unlocked by HIF are critical to both CCC's and BDC's Local Plans and without the HIF infrastructure these sites would not be developed to their current anticipated capacity without alternative planned transport interventions.

The Projects – Beaulieu Park Station & Chelmsford North East Bypass

- 3.6 The Projects includes the delivery of two key infrastructure components: (1) A new road (Chelmsford North East Bypass) providing a strategic link between Chelmsford, Braintree, London Stansted Airport and the wider area; and (2) a new railway station on the Great Eastern Mainline .
- 3.7 This infrastructure is vital for the delivery of the CCC adopted Local Plan, providing capacity and access to enable delivery of strategic housing sites and the MHCLG supported Chelmsford Garden Community. The Project also offers improved access to North Essex and provides conditions for housing growth in

Braintree District. In total 14,109 homes are supported by the delivery of the Project.

- 3.8 The North East Bypass will relieve congestion on local roads and enable existing routes into Chelmsford city centre, such as Broomfield Road and Essex Regiment Way to become Sustainable Transport Corridors (STC), providing easier, more reliable and resilient journeys in the region. An STC allows residents, workers and visitors a choice of transport modes for journeys. It articulates the need for transformational change to not only make sustainable modes a first choice for travel wherever possible, but also to ensure movement corridors work as hard as possible to bring communities together.
- 3.9 Beaulieu Park Station will be situated on the Great Eastern Mainline (GEML) between Chelmsford and Hatfield Peverel stations. As well as providing easy access to public transport for residents of the Beaulieu Park development it will also to some extent relieve overcrowding at Chelmsford railway station and act as a transport interchange to encourage sustainable travel by bus, cycle, electric vehicles and on foot. It is anticipated that, at pre- levels of traffic it will take 900 vehicles out of the city centre each morning peak, helping reduce pressure on the network, which currently only has 4% capacity at peak times. The station also brings benefits to the GEML because it will have three platforms, creating an additional place for trains to pass. This brings additional resilience to the line overall, although it will potentially impact on journey times.
- 3.10 The project provides significant benefits. At bid stage the overall economic benefits these projects provide can be summarised:
- Total homes unlocked (i.e. provided when otherwise planning permission would have been likely to be refused) – 10,500
 - Total homes supported – 14,109
 - Total employment space – 40,000m² business park space; 22,300m² of other commercial space
 - Total GDV of the housing sites – £10.5bn

The delivery of Beaulieu Park also contributes to a wider package of economic benefits stemming from investment in the GEML of which the new railway station will be a key component. Over a 30-year appraisal period the benefits include (from the Lichfields GEML Investment Economic Impact Assessment, in January 2014):

- Support 2,912 direct and indirect jobs during construction phase (£242m pa GVA).
- Supporting 3,190 jobs supported during operation (£158m pa GVA).
- Increase of business rate receipts of £2.3m pa; increase of council tax receipts of £6.2m pa.

These economic benefits were identified at bid stage (and in the case of the wider economic benefits from wider investment in the GEML, in January 2014). There will be obvious concerns as to whether all of these remain deliverable with the revised economic outlook resulting from the COVID pandemic.

4. Risk Exposure

- 4.1 In order to secure the release of the HIF funding, ECC are required to enter into a comprehensive grant determination agreement with Homes England (the “GDA”). The GDA sets out the terms of the funding and the deliverables for the Project including various warranties, conditions precedent and milestone dates that must be achieved by ECC in order for the funding to be released. The GDA will see Homes England commit to provide £217.861m for the Project, but there are significant risks associated with this. It is crucial that the decision maker understands the risks to which the Council will be exposed if the funding is accepted. That said, it is clear that unless the Council agrees to the terms, it is highly likely that this funding will be lost to the Project.
- 4.2 There are some areas of risk for ECC entering into the GDA. These fall into three categories:
- (a) A right for Homes England to stop providing any more funding if certain things happen. Many of these things are outside the control of ECC. The risk here would be
 - a. HIF is paid in arrears, meaning that ECC would have to pay for money already spent but not recovered
 - b. ECC is likely to award large contracts for schemes meaning that in addition to money already spent, it may have committed to future spend which would become unfunded. As a worst case scenario, if Homes England terminated after the award of the road construction contract but before anything has been reclaimed, ECC would be committed to c£80m of expenditure under the road contract. It is therefore advantageous if ECC can award contracts in stages, giving it the option to cancel parts of the contract to minimise this risk. That of course may make it harder for the contractor to programme work and therefore increase costs. The project team will look at this as potential mitigation as the project progresses into its construction phase and take a decision on how the contract is best structured at the point of going to the market for a construction contractor.
 - (b) A right for Homes England to stop paying funding and recover all payments made. This would be a £217m risk but it only arises in very limited circumstances, for example if there is corruption or Homes England is brought into disrepute by ECC.
 - (c) There are certain costs that ECC is obliged to underwrite. These relate to underwriting any operating deficit incurred with respect to the station. This risk has been minimised below but are still significant.
- 4.3 The key specific risks other than those relating exclusively to the station are as follows:
- (a) If there is slippage in the planning or delivery of the housing then Homes England can reduce or withhold all further funding. ECC is required to use reasonable endeavours to ensure that any third parties responsible for delivering the housing outputs achieve the target dates set out in the GDA. In reality ECC has little or no control on this and its reasonable endeavours

will be limited. If slippage occurred which could not be remediated or agreed with Homes England it would leave ECC having to pay all costs committed but not reimbursed even if the Council was not contractually committed and potentially at risk of covering the cost of the remainder of the delivery of the Project up to March 2025. The first milestone (30 April 2021) related to housing requires ECC entering into agreements with BDC and CCC in relation to housing delivery obligations. An agreement with CCC has been agreed in principle and negotiations with BDC are ongoing. The next housing milestone (January 2022) relates to the adoption of Section 2 of the Braintree District Local Plan. The Local Plan (Section 2) is due to be examined in July 2021.

The next milestones relate to housing delivery of which only 15% of the housing is required to be developed by the spend deadline of March 2025 and funding cannot be reclaimed once it is spent.

All housing sites that are due to be commenced prior to March 2025 are contained in the adopted Chelmsford Local Plan or the emerging Braintree District Local Plan.

Housing delivery at Beaulieu has been underway for many years now (with 807 homes already built as at summer 2020) and the other sites due to deliver before March 2025 are all in advanced stages of planning and negotiations with the relevant Local Planning Authority. In addition to this planning certainty, a draft agreement with CCC has been agreed in principle which would indemnify ECC up to the value of £5m if ECC incurs financial loss due to the actions or inactions of CCC in its facilitating of the delivery of the housing sites within CCC's control. Negotiations with BDC are ongoing.

ECC must procure that the infrastructure works commence on time and are completed by the date of practical completion listed in the GDA with all HIF monies spent by a deadline date - 31 March 2024 for the bypass and 31 March 2025 for the station. Delivery may require compulsory purchase orders to be made and implemented. If delivery is delayed then Homes England can withhold further funding as set out in paragraph 4.2(a) above.

- (b) ECC must comply with a number of conditions before it draws down each tranche of funding. Some of these relate to land ownership which are particularly onerous given that some of the land required for the road scheme is owned by third parties and will need to be acquired, possibly compulsorily purchased. Some land is also owned by Chelmsford CC. ECC is warranting that with respect to the land it acquires there are no securities, covenants or restrictions on any of the land that could hinder the works. Further information also needs to be provided to Homes England to demonstrate compliance with necessary consents, valuations of the land and certificates of title satisfactory to Homes England. ECC will not be able to make any claims for any money with the exception of the preliminary costs until it has acquired all land for the whole project with a clean title and HE is satisfied with the position. This represents a significant risk given the extensive land acquisition required for the road. Land acquisition will be

managed through the delivery planning process. Land negotiations are well advanced and ECC will consider the use of Compulsory Purchase Orders if required. There is a milestone date in the contract for ECC to have full control of the land required to develop the Bypass by May 2022.

ECC will be required to commit to use reasonable endeavours to ensure that developer of the housing – currently Countryside Zest - continues to pay up to £22m from developer s106 contributions to be used to support Beaulieu Park station. Of this, £3.739m has been received. Beaulieu is also supported by £12m Local Growth Funding from SELEP. If these contributions are not made it would be for ECC to fund from its own resources this scheme or otherwise the scope of the scheme would have to be revised – but this would only be possible with the consent of Homes England. The Bypass is supported by £2.2m of S106 contributions received from the Channels and Belstead Farm Development.

- (c) To fulfil the obligation of bringing forward all housing associated with the HIF contract the Council is required to fund the dualling of the bypass if it can be funded via the recovery and recycling strategy. We have made clear in the Recovery and Recycling Strategy that other sources of funding may well be forthcoming between now and 2040 such as planning contributions from housing sites allocated as part of a future Chelmsford Local Plan review as well as grant funding opportunities from DfT, SELEP, Transport East, etc. Failure to carry out the additional intervention to unlock all the housing outputs or failure to dual the bypass when funding was available could result in a General Default under the GDA which means that Homes England can terminate the drawdown of grant or reduce the total amount of funding. However, given that the milestone date for delivering the necessary transport intervention is 2040 (which can be changed by agreement with Homes England) there is no financial consequence if we do not fulfil the obligation as the grant must be spent by March 2025 with no provision in the GDA for clawback of funding that has been spent.
- (d) Where a default occurs the GDA sets out various remedial action which can be taken, but should this remedial action fail, the GDA will terminate, and Homes England may withhold and/or cancel any HIF funding.

- 4.4 The two biggest risks both of which sit alongside the Station project are described in the paragraphs below.
- 4.5 **Beaulieu Park Station Costs:** At the time of the HIF bid (March 2019) the station budget was £157m. When the revised cost estimate was presented by Network Rail from the GRIP (governance in rail projects) Stage 3 report (September 2020) this had risen to £171m. ECC expressed concern with a number of factors where scope exceeded what would generally be expected and around some of the pricing used. Network Rail appointed a new contractor, J Murphy & Sons Ltd, to take the project forward from GRIP Stage 4. The first task of the new project team has been to undertake value engineering. It is noteworthy that Murphy's set themselves an internal target of cutting £25m from the cost of the scheme. The value engineering work is ongoing and the project

team will not be able to report until May on the revised project budget. Cabinet are therefore being asked to approve entry into the GDA on current costs of £171m – for which funding has not been identified – but with the expectation that costs will be reduced to £157m. So far 127 possible items for cost reduction have been identified. The value engineering process has been helped by ECC requesting a scope change that will see the multi storey carpark removed from the scheme, replaced by a surface level carpark. This change was requested when data showed that the capacity provided by a multi storey carpark was not required. If value engineering is unsuccessful further decisions will be required as to whether any budget gap is filled by reprioritisation of the capital programme or whether the project is aborted. If the project is aborted, we will be unable to deliver the bypass unless Homes England agree otherwise. Should the project team be unable to reduce the cost estimate by the time the Transport and Works Act Order (TWAO) is submitted the project can't progress as it is a requirement of submission of the TWAO that there is a fully funded budget in place to deliver the project.

- 4.6 **Station Operating Costs:** There are six clauses relating to the financial performance of the station. One clause which exposes ECC to a significant financial risk is the requirement for ECC to cover any operating losses to Greater Anglia, Network Rail or Department for Transport incurred with respect to the opening of the station. This liability starts on the opening of the station and lasts until the station breaks even. This is standard drafting in new station clauses to minimise the risk that someone will sponsor the creation of a station which is not justified in terms of usage. Given that Chelmsford Station is one of the busiest on the network and the level of new housing being built in the vicinity of the new station, this station is needed. This clause has been subject to much negotiation. We have requested its removal given the benefits the station brings to the rail industry and project best practice whereby risk should sit with the organisations best placed to manage those risks. Despite the support of local MP's and senior officials within MHCLG these appeals were unsuccessful, although we have secured some mitigations to the clause in terms of what is being considered when measuring the profitability of the station. The methodology for ascertaining the profit or loss made by the station will be confirmed in a side agreement to the GDA.
- 4.7 Officers have worked with rail experts from Jacobs to define and work on the parameters of the potential financial exposure ECC faces. The station has a number of operational costs which to begin with are the responsibility of ECC until the station breaks even. These will be offset by revenue from ticket sales which is expected to offset these costs. The risks are significant. These are particularly around passenger numbers which can be modelled but not guaranteed. Modelling is particularly challenging at present because the recovery of passenger numbers following the pandemic is unknowable, particularly with respect to
- economic damage causing a reduction in employment;
 - people being reluctant to travel by public transport given that the government has spent most of the last year advising against the use of public transport; and

- a likely increase in people working at home may lead to a reduction in commuting.

4.8 Officers and Jacobs colleagues have taken industry standards and using their professional opinion and experience developed a model that allows various parameters to be changed to show the financial standing of the station under various different conditions. Jacobs have also used the recently opened Cambridge North Station as a comparator, this being a three-platform station as is Beaulieu Park Station and of similar size. It is this model that is driving the conclusions shown below. Officers and Jacobs colleagues have taken industry standards and using their professional opinion and experience developed a model that allows various parameters to be changed to show the financial standing of the station under various different conditions. Jacobs have also used the recently opened Cambridge North Station as a comparator, this being a three-platform station as is Beaulieu Park Station and of similar size. It is this model that is driving the conclusions shown below.

4.9 However, there are numerous factors in the model over which ECC has no control which if these move against ECC will affect the bottom-line position. The assumptions are as follows:

- Staffing, utilities, maintenance and services costs were developed by Winder Philips (commissioned by Greater Anglia in December 2020) and are in line with those at Cambridge North Station in 2019, 2 years after opening inflated accordingly. When assessing the operating costs of the station, only the costs of staff physically working at Beaulieu Park Station will be taken into account. Staffing levels will be those required by the rail industry for a station of this size.
- That Beaulieu Park Station will be served by five trains per hour in each direction during peak times and two trains per hour off peak - the frequency of trains will impact on the number of passengers.
- There are no additional driver costs associated with the new station. It takes additional time for trains to slow down, wait at the station and accelerate again. Whilst this is 2-3 minutes, this can add up to a significant time, requiring the recruitment of additional staff. The reasonable worst-case scenario is £488K per annum. However, DfT and Greater Anglia both have expressed the view that additional staff are unlikely to be required, meaning that we are not anticipating additional staffing costs.
- Fleet costs, which are the costs of additional train movements. There are no additional train movements if all trains are simply making an additional stop at Beaulieu Park but there will be some costs if train patterns which currently start or finish their journey at Chelmsford are extended to Beaulieu to start am peak journeys. This is at the assumed rate of £6 per mile.
- There are assumptions around fares charged that are in line with those currently applied to Chelmsford tickets. These assumptions would appear to be conservative in terms of future pricing which models ticket prices increasing at a rate lower than we have modelled for inflation.

- Benefits from car park revenue from the surface carpark that is separate from the station. The revenue is assumed to be £8 space per day. The pricing and churn of cars throughout the day is based on examples from other station carparks on the line.
- ECC is treated like a train operator when it comes to disruption on the line meaning that it will benefit from payments by Network Rail to cover estimated revenue lost due to engineering works etc.
- When assessing revenue the starting point is to count all tickets sold for journeys to or from the station but this will be reduced to take account of abstraction (ie those passengers already using train services from another station who switch to Beaulieu Park Station). However, it has been agreed that this abstraction will only take account of passengers who switch from Chelmsford only and even then, passengers who live in Beaulieu Park and currently use Chelmsford Station will not be counted as abstraction. In measuring abstraction Network Rail will look at the reduction in revenue at Chelmsford in the first year of operation compared to the previous year. This is a high-risk area with ECC holding no control and a number of assumptions. ECC will have to work with Network Rail and the TOC to put together a proper baseline scenario,
- The model assumes that the construction of new housing continues as planned, creating increased demand.
- The model assumes that the method of calculating the revenue and costs for the purpose of ECC's obligation to underwrite the costs but these have not yet been formally documented. Should there be a significant variation then ECC would not enter into the GDA without further approval from the Leader. Should there be any further development on this before the Cabinet Meeting then updated information will be provided to Members

4.10 The baseline model using the above assumptions and not modelling any economic downturn and assuming that passenger levels maintain their pre-covid levels by 2025 shows that the station would be in surplus in its first year of operation meaning that no payment would be required by ECC. In fact, if things are as modelled the station would generate a surplus of £3,878,938 in its first year.

4.11 However, by their very nature models can only forecast based on assumptions and there is a high degree of uncertainty around these forecasts, compounded by the increased uncertainty around the pandemic. It is important that the Cabinet understands the risks it is exposing the authority to. Accordingly, a sensitivity analysis has been undertaken to look at the impact of various scenarios on the size of the risk.

4.12 Further stress testing was then applied. Costs were inflated to nearly double the baseline scenario. Revenue was similarly downgraded to reflect the potential that the wider economy performs worse than assumed in the baseline, the model amended the GDP and employment numbers (which are used in the growth forecasts) to reflect 2017 levels through 2025 and then applied the previous growth rates through to the end of the appraisal. This is applied to all elements of revenue. In addition to reflect other factors, such as a slower

housing-build out around Beaulieu Park, worse than assumed access to the station, suboptimal fares strategy, a further 20% reduction was applied in the positive elements of revenue. On top of this to reflect the potential impact of COVID-19 through increased working from home, two scenarios were run a 40% and 60% reduction in all elements of revenue was applied. The results of these two scenarios are shown in the tables below. Under a 40% COVID the station makes a loss of £91K in year 1. In the 60% scenario it made a loss of £533K in year one. Both scenarios see profit in year 2.

Item	2025	2026	2027	2028	2029
Baseline as in paragraph 4.10	£3,878,938	£6,786,999	£8,337,402	£9,544,880	£10,080,811
Increased costs by 100%	£3,216,213	£6,109,206	£7,644,555	£8,836,978	£9,357,849
Wider economy downturn leads to loss in revenue	£2,258,995	£4,862,935	£6,220,232	£7,224,266	£7,644,081
Wider economy downturn (GDP & Employment held to 2017 levels) & 20% reduction for other factors	£792,356	£2,633,307	£3,608,808	£4,316,256	£4,569,923
COVID-19 (40% reduction)	-£91,764	£999,913	£1,572,329	£1,983,913	£2,123,225
COVID-19 (60% reduction)	-£533,824	£183,215	£554,089	£817,741	£899,876

4.13 This sensitivity analysis shows the modelled passenger numbers at Beaulieu Park within each scenario is as follows:

Item	2025	2026	2027	2028	2029
Baseline	770,920	1,164,218	1,382,192	1,548,080	1,627,578
Downturn in the wider economy	679,063	1,025,528	1,217,555	1,363,701	1,433,780
Downturn in the wider economy and 20% reduction for other factors	543,250	820,422	974,044	1,090,961	1,147,024
Downturn in the economy and COVID-19 (40% reduction)	325,950	492,253	584,426	654,577	688,215
Downturn in economy and COVID-19 (60% reduction)	217,300	328,169	389,618	436,384	458,810

Published passenger numbers at other stations in the area are:

Year	Chelmsford Station	Hatfield Peverel Station	Witham Station
2015/16	▲ 8.488 million	▼ 0.413 million	▼ 2.377 million
2016/17	▲ 8.537 million	▼ 0.412 million	▼ 2.344 million
2017/18	▲ 8.620 million	▲ 0.419 million	▼ 2.332 million
2018/19	▲ 8.927 million	▲ 0.427 million	▲ 2.349 million
2019/20	▼ 8.606 million	▼ 0.425 million	▼ 2.299 million

Source: Office of Rail and Road Estimates of Station Usage

4.14 This shows that even allowing for a 60% reduction in passenger numbers over that forecast the station generates a surplus in year 2 and ECC's exposure

would be £533,824. However, whilst this has been modelled as a worst-case scenario, no one can predict long term passenger numbers.

- 4.15 The DfT have committed in writing that should there be a situation where unforeseen and catastrophic “force majeure” events DfT would expect to adjust Greater Anglia’s actual revenue figures, and meaning that ECC would not hold the operational cost/revenue risk of such events. Events that make it impossible to provide rail services on the GEML or lead to an extraordinary reduction in passenger demand and revenue. The former may include large-scale line closures following force majeure, the latter may include the impact of a pandemic.
- 4.16 There is no indication that the DfT is prepared to make any payment to ECC if the station generates a profit.
- 4.17 As noted in 4.5 ECC and DfT are to enter into a side agreement to agree the methodology as to how the operating costs are measured. Throughout the contracting process both parties have discussed and reached agreement in principle on what will be included and excluded in this agreement. Both parties had red lines in these negotiations. DfT required the clause to remain as they need to prevent the building of ‘white elephant’ stations on the network that create future financial liabilities for the rail industry. It has been agreed with DfT as to what is included and excluded from the agreement. In summary these are shown in appendix C below.
- 4.18 Discussions on formalising the positions set out above have started but have not got to a point whereby Officers are able to bring forward an agreement alongside this paper. Cabinet is asked to agree that Officers complete the process of reaching formal agreement with the DfT alongside completing contractual arrangements with Homes England. This is expected to be concluded by the end of April 2021. As listed above there is general agreement on what will be included and excluded from any such agreement. Should these discussions not lead to a position that ECC finds acceptable ECC would seek to withdraw from the agreement with Homes England. As a pre-requisite to entering into the agreement the principles of Open Book Accounting are to be incorporated to ensure there is full transparency of the basis for the liability ECC is being asked to fund such that due diligence can be undertaken to verify the value of the liability.
- 4.19 No one can predict what the long-term effects of COVID will have on the rail industry. The current position of the DfT is that by the time the station is operational passenger numbers will be back to pre COVID levels. However, should this not be the case it isn’t an entirely negative impact on the operational costs model. Whilst revenue could be reduced so would the losses to ECC caused by the abstraction. The stress tests noted in 4.8 have ran a scenario with the effect of COVID reducing passenger numbers, and associated revenue, at 40 and 60%.
- 4.20 Beaulieu Park Station is formally part of the government’s project speed initiative. This initiative seeks looks at various infrastructure projects and to try

and accelerate their delivery. The focus of achieving programme acceleration is on reforming governance but other areas are considered. As part of this programme there were a number of workshops held late in November/December 2020. These were led by the government unit, the Infrastructure and Projects Authority. A number of initiatives from these workshops are being looked at. ECC has stated that it fully supports the project speed agenda and will consider all possibilities to deliver the project on an accelerated programme. However, should any of the proposals require additional funding or introduce additional financial risk to be held by ECC it would not be an acceptable position for the Authority. This stance has been accepted by Network Rail and Homes England as fair and reasonable. The matter is with Network Rail and the Infrastructure & Projects Authority to progress and to put forward any of the initiatives that are considered worthy of consideration for further discussion. Successful initiatives emerging from project speed will assist ECC in managing its risks in spending the HIF allocation prior to the deadline date.

Terms of Agreements with CCC and BDC

- 4.21 ECC have been working with CCC and BDC to understand how the GDA obligations can be most appropriately shared with the local planning authorities. ECC is also obliged to ensure that the planning authorities are formally committed to partnership working and the recovery and recycling strategy. An agreement between ECC and the local planning authorities is essential given that the GDA creates obligations on ECC to oversee the delivery of housing whereas the planning controls for that housing resides with the local planning authorities.
- 4.22 In addition to indemnifying ECC, agreements with CCC and BDC are required as part of the GDA to provide Homes England will further assurance on housing delivery. The GDA requires that these agreements include provisions for partnership working to encourage the development of the housing outputs as well as share information on the progress of their delivery.
- 4.23 CCC has agreed in principle to a draft agreement which obliges CCC to use reasonable endeavours to facilitate the planning approvals required to progress the housing outputs. The draft agreement also creates other obligations on CCC, such as those relating to the Recovery & Recycling Strategy, to ensure ECC's obligations in the GDA are properly indemnified. The agreement includes £5m indemnity to cover any financial losses incurred by ECC as a result of the actions or inactions of CCC in respect of these obligations. Note that ECC does not have any liability for non-delivery of housing unless this is because of their planning failures.
- 4.24 Negotiations with BDC have made less progress but are ongoing. It is a requirement for there to be an agreement with Braintree DC before funding can be drawn down.

5. Options

5.1 Option 1 – Enter into the Grant Determination Agreement.

Option 1 is to enter into the GDA. Entering into the GDA would unlock the funding that is available and enable ECC to recover some of the historic costs it has incurred to date. However, option 1 is not without risk due to the detailed obligations and provisions in the GDA relating to delivery of the Project in accordance with the agreed dates and compliance with warranties and conditions precedent as set out in paragraph 3 of this report. It is also possible that compulsory purchase orders will be required to obtain some of the land for the Bypass. The overall deliverability of the Project will also be dependent on third parties including the professional team, contractors, CCC and BDC carrying out their obligations in accordance with the agreed timescales. Funding will not be available without agreements with BDC and CC.

5.2 Option 2 – Do not enter into the Grant Determination Agreement

This would undermine CCC's adopted Local Plan (and BDC's emerging Local Plan) and make it undeliverable. Housing and associated business developments would not come forward. Reputationally, there is also a risk that that ECC would be viewed as an authority that Government and Governmental Departments would not want to do business with given the significant amount of resources that have been committed to get the Project to this stage. ECC would also not be able to recover the £5.5m of costs that it has incurred to date in undertaking works for the Project leading to abortive costs and a unfunded revenue pressure. ECC would also need to consider alternative investment required to support and manage future traffic arrangements and in particular managing the increased pressure on Chelmsford Station. It would also mean that the improvements to the Great Eastern Mainline fail to materialise.

6. Financial implications

6.1 The total capital programme budget for Beaulieu Park Station and Chelmsford North East Bypass is £250.430m funded by £217.861m HIF Funding, £20.569m S106 Contributions (of which there is a total £24.224m available) and £12m of Local Growth Funding from SELEP:

	Prior Year Actuals	2020/21 Budget	2021/22 Aspirational Budget	2022/23 Aspirational Budget	2023/24 Aspirational Budget	2024/25 Aspirational Budget	2025/26 Aspirational Budget	TOTAL
	£000	£000	£000	£000	£000	£000	£000	£000
Capital Programme								
Beaulieu Park Station	3,255	1,800	3,164	17,000	43,000	59,000	29,851	157,070
Chelmsford North East Bypass	2,114	4,243	8,230	32,158	46,615	-	-	93,360
Total Expenditure	5,369	6,043	11,394	49,158	89,615	59,000	29,851	250,430
HIF		7,008	10,742	49,158	89,615	59,000	2,338	217,861
Local Authority Contributions	2,553	1,800	652	-	-	-	15,564	20,569
LGf SELEP	51	-	-	-	-	-	11,949	12,000
ECC forward funding	2,765	(2,765)	-	-	-	-	-	-
Total Funding	5,369	6,043	11,394	49,158	89,615	59,000	29,851	250,430

6.2 The most recent profile of spend prior to the conclusion of Grip 4 value engineering totals £266.584m and is shown below, this is expected to be funded

by £217.861m HIF funding, £24.224m S106 contributions and £12m of Local Growth Funds from SELEP, with the remaining being requested to be funded by prudential borrowing subject to a requirement that this addition may not be spent on the Beaulieu Park scheme without a further cabinet decision to authorise the expenditure once the value engineering is completed. This is above what is included in the current capital programme and therefore the following adjustments are requested:

	Prior Years	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	TOTAL
	£000	£000	£000	£000	£000	£000	£000	£000	£000
Capital Programme									
Beaulieu Park Station	3,255	1,800	3,164	17,000	43,000	59,000	29,851	-	157,070
Chelmsford North East Bypass	2,114	4,243	8,230	32,158	46,615	-	-	-	93,360
Total	5,369	6,043	11,394	49,158	89,615	59,000	29,851	-	250,430
Current Forecast									
Beaulieu Park Station	3,255	4,460	2,948	15,234	49,879	67,019	26,624	1,581	171,000
Chelmsford North East Bypass	2,114	4,051	5,958	22,284	58,953	2,224	-	-	95,584
Total	5,369	8,511	8,906	37,518	108,832	69,243	26,624	1,581	266,584
Capital Programme Adjustments required									
Beaulieu Park Station		2,660	(216)	(1,766)	6,879	8,019	(3,227)	1,581	13,930
Chelmsford North East Bypass		(192)	(2,272)	(9,874)	12,338	2,224	-	-	2,224
Total Adjustments	-	2,468	(2,488)	(11,640)	19,217	10,243	(3,227)	1,581	16,155

- 6.3 It is expected that value engineering will achieve reductions of £13.930m in full or part; however, in parallel a review of the published capital programme will be undertaken to identify opportunities for substitution to ensure that there is no overall escalation in the programme and the associated costs of borrowing. This will be incorporated into the Financial Outturn Quarter 1 Cabinet report.
- 6.4 As set out above the most significant financial risks to ECC associated with entering into the GDA are:
- 6.5 The GDA stipulates that any capital cost overruns will be the responsibility of the bidding authority, therefore ECC will be the funder of last resort and expected to fund any current and future unknown capital cost escalation that may materialise associated with the construction of both Beaulieu Park Station and Chelmsford North East Bypass.
- 6.6 The current capital cost profile for Beaulieu Park station, identified as part of GRIP stage 3, is £171m as shown in the above table, this is £14m above the current capital programme budget allocation of £157m resulting in £14m cost escalation, which is expected to materialise across 2023/24 and 2024/25. Therefore, an addition is requested to be made to the capital programme of £13.930m for Beaulieu Park station to be funded by prudential borrowing to allow the commitment within the GDA to be entered into subject to a requirement that this addition may not be spent on the Beaulieu Park scheme without a further cabinet decision to authorise the expenditure once the value engineering is completed. Value engineering has become a critical activity of GRIP stage 4 to review opportunities to bring the total cost within the original budget of £157m. However, whilst this exercise brings about potential opportunities for cost savings it also highlights cost risk, the quantum of both is currently unknown. The value engineering exercise is at the initial stages, and there is not yet an evidence base to support opportunities and consequently no assurance can be given that the £14m cost escalation is mitigated.
- 6.7 The current capital cost profile for Chelmsford North East Bypass is £95.584m, this is £2.224m above the current capital programme allocation. Therefore, an

addition of £2.224m is requested to be made to the capital programme for Chelmsford North East Bypass funded from received S106 contributions.

- 6.8 In reference to Beaulieu Park Station, the GDA includes a clause requiring ECC to fund the operation of services, including rolling stock charges and costs until the service breaks even. This clause may create a new revenue financial liability for ECC as it exposes ECC to funding the net revenue operational cost of Beaulieu Park Station for an unquantified period until breakeven is achieved. Annexure 7 of the GDA will be drafted and will include the methodology to calculate ECCs liability. A requirement for open book accounting will be a prerequisite to approval by ECC of the Annexure to ensure that ECC can undertake due diligence on the liability. As this part of the agreement is yet to be drafted and agreed there is a risk to ECC that the methodology could subsequently change increasing the revenue financial liability to ECC above the scenarios highlighted in this report.
- 6.9 Work has been undertaken to assess what ECC's likely financial exposure is to the above risk, but due to the inherent uncertainties and limitations of the financial modelling undertaken by Jacobs it is not possible to quantify with certainty what this exposure will be. The work undertaken by Jacobs to review ECC's likely financial exposure to this risk was shared with ECC's finance team and a review of assumptions was undertaken to understand the inherent limitations within and subsequent output. Each key assumption and related risk is detailed in appendix B. Finance do not give assurance that the modelled financial values are reliable and represent what could be expected once the station is operational, this is due to the assumptions and inherent limitations as detailed in appendix B.
- 6.10 Should the risk crystallise and ECC becomes liable, the service will manage the financial exposure through the substitution of existing budgetary allocations within the Infrastructure Portfolio.
- 6.11 The S106 contributions include 2 separate agreements, one is associated with Chelmsford North East Bypass and totals £2.224m, this has been received and is not at risk. The 2nd is for Beaulieu Park Station which totals an anticipated £22m of contributions, approximately £3.7m has been received to date and used to fund historic expenditure, the remaining allocations are due in stages throughout the project's life and directly linked to each GRIP stage.
- 6.12 All the financial projections and assumptions supporting the project at this current moment in time do not take account of any potential Macro economic shock post covid, it is not known what potential impact this could have on interest rates, inflation, material prices etc. This is a risk to ECC in that it may result in capital cost escalation and increased revenue cost pressures. This risk may also impact Public Works Loan Board interest rates and therefore any revenue cost of borrowing associated with funding any current or future capital cost escalation could increase should prudential borrowing be approved.
- 6.13 In order to proceed with the project, ECC is required to own all land associated with the development of infrastructure. A land strategy is in place, but for

Chelmsford North East Bypass the cost profile and programme does not assume the need to purchase the land via a compulsory purchase order (CPO), if a CPO is required there is risk of cost escalation, programme delays and consequently a risk that ECC will not be able to draw down all the HIF funds by the required deadline of March 2024.

- 6.14 The benefits associated with this project (highlighted in 3.8 to 3.10) suggest that the scheme will result in additional business rates and council tax receipts. However, there is no certainty that these will be incremental to the existing tax base. Furthermore, any receipts may be offset entirely by additional demand for services. There may also be future infrastructure requirements which are currently not planned for nor budgeted.
- 6.15 The GDA stipulates that the HIF funding is required to be spent by March 2024 for Chelmsford North East Bypass and March 2025 for Beaulieu Park Station. The current profiles assume that all HIF monies can be spent by the required date. However, there is a risk that any programme delays could result in the target date being missed and in turn any HIF funding unspent will be unavailable for ECC to draw down which would result in a funding gap to be funded by ECC as funder of last resort. Current mitigations to this risk on Beaulieu park station including project speed are detailed in paragraph 4.20.
- 6.16 The GDA stipulates that where 'fundamental default' has occurred Homes England shall require ECC to immediately repay the HIF funding and all other amounts due under the agreement together with interest. A fundamental default will occur whereby a report or direction is made, ECC, or where applicable, any Contractor, subcontractor, employee, officer or agent commits any prohibited act under the contract (in respect of which the Waiver Condition has not been satisfied), there has been an act/omission on the part of the Grant Recipient, or any of its contractors (including contractors) that in Homes England's opinion (using its absolute discretion) harms the reputation of Homes England, the HIF Programme or brings Homes England into disrepute.
- 6.17 The contract requires the total value of historic expenditure that has been incurred from April 2019 up until the date the GDA is signed to be stipulated and where HIF is used to fund such expenditure the value will need to be approved by Homes England (in its absolute discretion). ECC has forward funded £2.113m of expenditure incurred in 2019/20 and £4.243m to date in 2020/21. The project team are currently preparing the necessary evidence and anticipate receiving all money expended (excluding legal fees) to be refunded in the first drawdown. There is a risk that Homes England do not authorise this historic expenditure resulting in a funding gap as well as a risk of abortive cost should the scheme not continue which would result in an unfunded revenue pressure.
- 6.18 The GDA asks for the total preliminary costs to be stipulated, the total is £6.671m, there is a risk that if the amount stipulated in the contract is less than actual preliminary costs incurred that ECC may be liable to fund additional costs.

Financial Mitigations and opportunities

- 6.19 A current mitigation to the risk that HIF funds cannot be drawdown within the required timeline (as stipulated in paragraph 6.14 and 6.12) is the successful implementation of Project Speed (paragraph 4.20) which is being delivered by Network Rail and the Infrastructure and Projects Authority to look at opportunities to accelerate programme delivery. If this project is successful in accelerating the project securing completion prior to March 2025, then the risk of not being able to drawdown the maximum HIF allocation on Beaulieu Park Station is fully mitigated.

7. Legal implications

- 7.1 The risks associated with the drawdown of funding under the GDA are set out in detail above. In particular, the acquisition of the sites, the provisions of certificates of title acceptable to Homes England, compliance with all necessary consents and planning permission all need to be achieved before the funding will be available.
- 7.2 ECC will need to follow appropriate procurement procedures when appointing the professional team and contractors. There are specific requirements within the GDA that must be covered in contracts with contractors in order to comply with the terms of the GDA.
- 7.3 Separate reports to cover the formal governance for specific project matters relating to land, procurement and Compulsory Purchase Orders (if required) will need to be prepared at the relevant time and in sufficient time to meet the milestones set out in the GDA.
- 7.4 As part of the bid, ECC obtained a legal opinion from Counsel that confirmed that the provision of this funding did not amount to state aid. There is an ongoing requirement that ECC obtain regular state aid opinion throughout the life of the contract at intervals of every 12 months.
- 7.5 ECC will be agreeing to a number of obligations when entering into the GDA which are outside of ECC's control including the delivery of housing outputs. Housing outputs are linked to the milestones under the Contract and failure to deliver milestones will amount to a default of the GDA. Whilst there will be opportunity for ECC to remedy any default, if it cannot, the ultimate consequence may be that the GDA is terminated, resulting in no further payment of HIF funding. Funding will be claimed by ECC in arrears and this could therefore leave ECC with a substantive shortfall.
- 7.6 Any fundamental default of the GDA will enable Homes England to terminate the GDA in its entirety, suspend or alter the timing of the payment of any HIF funding, withhold and cancel any further payment of HIF funding due to ECC under the Contract, and require the Grant Recipient to immediately repay the HIF Funding and all other amounts due under the GDA together with interest.

- 7.7 HIF funding may also be reduced in the event that there are variations arising out of the operation of the delivery plan and/or expenditure forecast, changes to the infrastructure works or the housing outputs agreed between the parties or increases in income or other sources of financial assistance becoming available to ECC or a Contractor in relation to the delivery of the infrastructure works.
- 7.8 ECC will need to ensure that it has adequate sub-contracts and appointments in place to protect itself, in so far as possible, and to assist it in complying with the terms of the GDA.
- 7.9 However, there are risks to which ECC is exposed which it will have to manage as best it can. It is no answer to say that it is unlikely that Homes England or the Department for Transport would wish to exercise their rights; if they do not want to exercise their rights then they would not be insisting upon the legal terms that they are insisting on.

8. Equality and Diversity implications

- 8.1 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.
- 8.2 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).
- 8.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic. The ongoing developments will be subject to further equality impact assessments by CCC and BDC as the relevant local planning authorities.

9. List of appendices

- 9.1 Appendix A: Equality impact assessment (Meeting Document - not in agenda pack)

- 9.2 Appendix B: Detailed Risk Assessments and Assumptions: Chelmsford HIF Programme (Meeting Document - not in agenda pack).

10. List of Background papers

- 10.1 MHCLG Guidance on applying for Housing Infrastructure Fund weblink:
<https://www.gov.uk/government/publications/housing-infrastructure-fund>

Appendix C - Financial performance of the station

ECC is liable to pay any operating deficit of the new station until the first year it breaks even. The operating deficit has not yet been defined in detailed legal drafting but agreement in principle with the Department for Transport mean it is expected to work by deducting the revenue from the operating costs as shown below working on an open book basis:

1. The cost of operating the station will be calculated as follows:

Cost Items to be included:

- Costs associated with managing and maintaining the carpark controlled by the train operator.
- Utility charges.
- Station staff working at this station only.
- Cleaning and maintenance costs associated with the station (but not the track itself)
- Additional train crew if additional staff are required to operate services to and from the station. This is thought to be unlikely.
- Fleet charges to cover the additional cost of starting trains which currently only run to/from Chelmsford to Beaulieu Park

2. Income associated with the station will be calculated as follows:

Revenue included

- Ticket revenue for passengers using the new station but reduced by the amount of any fall in revenue at Chelmsford Station in the first year of operation of the station compared to the year immediately preceding), other than revenue lost from Chelmsford
 - o as a result of any reduction occasioned by a resident of the new Beaulieu Park development who uses the new station instead of Chelmsford or
 - o any movement of passengers as a result of Chelmsford station being overcrowded at peak times (note that it is difficult to measure this).
- Revenue from the car park controlled by the train operator (and not the car park controlled by the City Council).