



Essex County Council

Cabinet

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

For information about the meeting please ask for:

Emma Tombs, Democratic Services Manager

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Essex County Council and Committees Information

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

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

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

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Participants: (Officers and Members) will have received a personal email with their login details for the meeting. Contact the Democratic Services Officer if you have not received your login.

Members of the public:

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

Accessing Documents

If you have a need for documents in, large print, Braille, on disk or in alternative languages and easy read please contact the Democratic Services Officer before the meeting takes place. For further information about how you can access this meeting, contact the Democratic Services Officer.

The agenda is also available on the Essex County Council website, www.essex.gov.uk. From the Home Page, click on 'Running the council', then on 'How decisions are made', then 'council meetings calendar'. Finally, select the relevant committee from the calendar of meetings.

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

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4	SELEP Local Growth Fund Award to the University of Essex for Parkside Phase 3 (FP/746/07/20) The Equality Impact Assessment is available on the Essex County Council website – please scroll to the bottom of the page.	12 - 16

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Appendix A (Equality Impact Assessment) and Appendix B (Detailed Risk Assessments and Assumptions: Chelmsford HIF Programme) are available on the [Essex County Council website](#) – please scroll to the bottom of the page.

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Report (FP/915/12/20)**

The Equality Impact Assessment is available on the [Essex County Council website](#) – please scroll to the bottom of the page.

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Cabinet Members (FP/976/02/21)**

10 Date of next meeting

To note that the next meeting of the Cabinet will take place online at 10am on Tuesday 20 April 2021.

11 Urgent Business

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

Exempt Items

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

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

That the press and public are excluded from the meeting during the consideration of the remaining items of business on the grounds that they involve the likely disclosure of exempt information falling within Schedule 12A to the Local Government Act 1972, the specific paragraph(s) of Schedule 12A engaged being set out in the report or appendix relating to that item of business.

12 Urgent Exempt Business

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

Committee: Cabinet

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

Membership, Apologies, Substitutions and Declarations of Interest

Recommendations:

To note:

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

Membership
(Quorum: 3)

Portfolio

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

Minutes of a meeting of the Cabinet that was held remotely on Tuesday 16 February 2021

Present:

Councillor	Cabinet Member Responsibility
Councillor D Finch	Leader of the Council (Chairman)
Councillor T Ball	Economic Development
Councillor S Barker (for agenda items 1-4 only)	Customer, Communities, Culture and Corporate
Councillor K Bentley	Deputy Leader and Infrastructure
Councillor R Gooding	Education and Skills
Councillor L McKinlay	Children and Families
Councillor D Madden	Performance, Business Planning and Partnerships
Councillor J Spence	Health and Adult Social Care
Councillor S Walsh	Environment and Climate Change Action
Councillor C Whitbread	Finance

Councillors Durham, Goggin, Turrell, Scordis, Steptoe, Mitchell, Hedley, Henderson, Wood, Grundy, Weston, Moran and Pond were also present.

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

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

1. There had been no changes to membership since the last meeting of Cabinet.
2. Apologies were received from Councillor Mackrory, and for Councillor Barker for agenda items 5-15.
3. There were no declarations of interest.

2. **Minutes: 19 January 2021**

The minutes of the meeting held on 19 January 2021 were agreed as a correct record and would be signed by the Chairman.

3. **Questions from the public**

There were no questions from members of the public.

Change of date of May 2021 meeting

The Leader of the Council made a statement in respect of a change to the date of the Annual meeting of Full Council, which would now take place on 25 May 2021. This required the Cabinet meeting currently scheduled for this date to be rescheduled to 8 June 2021. The Cabinet meeting currently scheduled for 22 June 2021 would be retained in case it was found to be needed. The Cabinet confirmed their approval of these arrangements.

4. Future Temporary Resourcing Services (FP/860/11/20)

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

The Cabinet Member for Customer, Communities, Culture and Corporate agreed to provide a written answer to Councillor Henderson in respect of questions relating to the number of temporary workers employed, the benefits and savings of the proposed recruiting method and why, given the benefits, this approach had not been previously utilised.

Resolved:

1. To bring temporary staff resourcing activity and management in-house.
2. To go out to the market to procure a payroll and time-sheet service for management of ECC temporary staff and to agree that the Cabinet Member for Customer, Communities, Culture and Corporate Services in consultation with the Director Organisation, development and People and Service Transformation to:
 - (a) approve the procurement approach and strategy, procurement process and evaluation model; and
 - (b) following the completion of a compliant procurement process, to approve the winning bidder(s) and award the contract.
3. To undertake a competitive procurement of a Dynamic Purchasing System (DPS) for recruitment of temporary staff for hard to fill posts for a period of 5 years, with an option to extend for 5 years and to agree that the Cabinet Member for Customer, Communities, Culture and Corporate Services in consultation with Director Organisation, development and People and Service Transformation will approve the procurement approach and strategy, procurement process and evaluation model.
4. That the £65,000 for temporary staff attraction activity, including the cost of national job board posting and LinkedIn job postings, to be funded from

the Transformation Reserve in Year 1 and built into future years as part of the Medium-Term Resource Strategy.

5. Approval to place 2021/22 contractual task orders with Ringway Jacobs for values of £2m and over (FP/918/12/20)

The Cabinet received a report advising that the Council's highways contract with Ringway Jacobs Limited required the Council to place orders for all work undertaken. Some task orders within this programme of work had a value in excess of £2m. Although the highways budget was set by Council as part of the annual budget, spending decisions on executive functions of over £5m should be taken by the Cabinet. The report asked the Cabinet to approve the issue of those task orders likely to exceed £2m to Ringway Jacobs for the 2021/22 financial year.

The Deputy Leader and Cabinet Member for Infrastructure responded to a question from Councillor Henderson in relation to the costs when completed repairs subsequently required further work. A written answer would also be provided to Councillor Henderson regarding the level of work that was sub-contracted, and how such work was allocated.

Resolved:

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

6. Establishment of a new 210-place primary school and 56 place Early Years provision at the St Luke's housing development, Runwell (FP/866/11/20)

The Cabinet received a report asking the Cabinet to approve the establishment of a new 210-place (1 form of entry) primary school and associated 56 place Early Years provision (for children aged 0-5) to meet growing demand for primary age places in the local area and award the relevant contract for delivery of the new school.

The Cabinet Member for Education and Skills responded to a question from Councillor Pond in respect of how good design principles could be utilised within the development.

Resolved:

1. That a new 210-place primary school and 56 place Early Years provision should be established to serve the population growth at the St. Luke's Park housing development.

2. That the Director, Education issues notification that the Council is seeking to establish a free school in the area and seeks bids from potential sponsors by sending the notice to operators of schools in Essex, and by public notice.
3. To undertake a procurement exercise to secure a construction Partner through a mini competition using the Essex Construction Framework, in accordance with the budget set out in the Confidential Appendix to the Agenda report.
4. That the Head of Infrastructure Delivery is authorised to enter into a contract at the end of the procurement exercise to deliver the new primary school and Early Years provision on the St Luke's Park housing development, provided he is content that the following conditions have been met:
 - a. A satisfactory planning permission has been granted; and
 - b. The construction costs are within the agreed budget as stated within the Confidential Appendix to the Agenda report and represent value for money.

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

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

Resolved:

1. To enter into negotiation with Countryside PLC based on the Heads of Terms as set out in the confidential appendix of the agenda report in order to finalise the form of an Option Agreement.
2. That a further report would be brought back to Cabinet once there was a recommended final form of option agreement.

8. **Integrated Waste Handling Service Delivery Options (FP/904/12/20)**

The Cabinet received a report seeking approval of the recommended delivery model for the operation of the Recycling Centres for Household Waste (RCHW) and Waste Transfer Stations (WTS) to replace the current Integrated Waste Handling Contract (IWHC).

The Cabinet Member for Environment and Climate Change Action responded to questions from Councillors Henderson and Pond in relation to discussion with relevant trade unions, the terms on which members of staff would be employed and why some matters were noted as being reserved.

The Cabinet Member for Environment and Climate Change Action advised Cabinet of a change to one of the published recommendations, specifically the removal of the words “and structure changes” in recommendation no.2. This change was noted and approved by the Cabinet.

Resolved:

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

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

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

10. **Date of next meeting**

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

11. **Urgent Business**

There was no urgent business.

Exclusion of the Press and Public

Resolved:

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

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

The Cabinet considered the Confidential Appendix to report FP/866/11/20 which contained information exempt from publication referred to in that report and in decisions taken earlier in the meeting (minute 6 above refers).

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

(Press and public excluded)

The Cabinet considered the Confidential Appendix to report FP/800/09/20 which contained information exempt from publication referred to in that report and in decisions taken earlier in the meeting (minute 7 above refers).

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

(Press and public excluded)

The Cabinet considered the Confidential Appendix to report FP/904/12/20 which contained information exempt from publication referred to in that report and in decisions taken earlier in the meeting (minute 8 above refers).

15. **Urgent Exempt Business**

There was no urgent exempt business.

There being no further business, the meeting closed at 10.30am.

Forward Plan reference number: FP/746/07/20

Report title: SELEP Local Growth Fund Award to the University of Essex for Parkside Phase 3	
Report to: Cabinet	
Report author: Councillor David Finch – Leader of the Council	
Date: 16 March 2021	For: Decision
Enquiries to: Paul Chapman – Principle Economic Growth and Regeneration Officer – paul.chapman@essex.gov.uk	
County Divisions affected: Colchester	

1. Purpose of Report

- 1.1 The purpose of this report is to seek approval for the passporting of a grant of five million pounds (£5,000,000) of Local Growth Fund (LGF) from South East LEP Limited (SELEP) to the University of Essex for delivery of the Parkside Phase 3 Project.

2. Recommendations

- 2.1 Agree to enter into a grant agreement with the University of Essex for £5,000,000 towards the delivery of the Parkside Phase 3 Project.
- 2.2 Agree that the Executive Director, Place and Public Health is authorised to agree the terms of the grant agreement with the University of Essex provided that the terms of such grant are consistent with the terms set out by SELEP.
- 2.3 Agree to amend the profile of the capital programme in line with the revised cost profile of £5,000,000 across 2021/22 and 2022/23 for the Parkside Phase 3 Project to be financed by the SELEP LGF grant.

3. Summary of issue

- 3.1 The University of Essex (the 'University') has a research and technology park for knowledge-based science, technology and digital creative companies on the Colchester campus called the 'Knowledge Gateway'. The University plan for the Knowledge Gateway to become a national centre of excellence for businesses in high-value, knowledge-based sectors linked to the University's research expertise, employing over 2,000 people. Phase 3 of the Knowledge Gateway Project relates to the construction of a four-storey building (the 'Project'). The Project is intended to provide further accommodation for growing businesses and enable larger businesses to occupy the site for the first time, driving growth in the wider economy.

- 3.2 The Project will be an extension of the Parkside Office Village at the Knowledge Gateway site, which is already home to Parkside Phase 1 (consisting of nine units), Parkside Phase 1a (consisting of three units) and Parkside Phase 2 (consisting of seven units). The strong market appetite for space within the Parkside Office Village units demonstrates proven demand from businesses to co-locate with the University at the Knowledge Gateway and the Project is a key opportunity to further leverage the University's engagement with business as a means of securing economic growth.
- 3.3 The Project will have a total area of 4,772m² gross (51,355 sq. ft.), ideal for a single tenant (i.e. a new large employer to the area). Each of the floors has the flexibility to be subdivided in multiple ways, providing a total net floor area of 3,775 m² (40,645 sq. ft.).
- 3.4 SELEP agreed a growth deal with the Government to include the payment to SELEP of the Local Growth Fund Grant by the Ministry of Housing Communities and Local Government. The Project has been approved by SELEP as a growth deal project and has received £5,000,000 towards the delivery of the Project.
- 3.5 The application for the Project was initially agreed by SELEP Accountability Board on 14 February 2020 but, due to the impact of Covid-19 on the Universities cashflow, there was a delay in the Project and a reprofiling of the finances required to deliver it. The revised financial package was agreed by the Council of the University of Essex on 30 November 2020 leading to the Project and its funding package being reconsidered and accepted by the SELEP Accountability Board on 12 February 2021.
- 3.6 The total capital cost of the Project is £10,500,000 of which £5,000,000 will be funded by this grant and £5,500,000 by the University. There is an allowance of £500,000 (4.8%) for contingency within the total project cost.
- 3.7 The Council will need to enter into a grant agreement with the University of Essex to passport the funding. The terms of this grant agreement must be consistent with the requirements mandated by SELEP.

4. Options

4.1 Option A – Enter into a grant agreement with the University - Recommended Option

The funding will enable the University to progress with the development of the Project which will be suitable for larger employers to relocate to the region, addressing identified limitations within the local economy that have been identified in a number of independent assessments. The delivery of this Project, funded by the Local Growth Fund Grant, has been approved by SELEP. It is a requirement that all LGF monies transferred are used for the purpose for which they have been allocated and meets the conditions of the grant from SELEP.

4.2 Option B – Do nothing

If ECC does not agree to invest in this Project, it will mean that the Project will not be able to proceed. As a consequence, the speed at which the University can enhance both the scale and type of facilities at the Knowledge Gateway would be severely compromised. In particular, were the University to be funding the next phase of development itself, it would be most likely to prioritise additional small business units, delivering more of the same type of facilities, which could be delivered at lower up-front cost. This would result in the full range of benefits for the local economy in terms of job and wealth creation and diversification within the North-Essex economy being lost.

5. Issues for consideration

5.1 Financial implications

The total capital cost of the project is £10.5m, of which £5m will be funded by LGF grant awarded by SELEP and £5.5m by University of Essex. There is an allowance of £500,000 (4.8%) for contingency within the total project cost.

This LGF funded element of the project is included in the ECC capital programme as the funding from SELEP flows through the respective upper tier authority. The following changes are required to ensure the capital programme reflects the latest forecast of spend:

	2021/22 £000	2022/23 £000	Total £000
Current Capital Programme	2,000	3,000	5,000
Revised Capital Programme	3,270	1,730	5,000
Changes Requested	1,270	(1,270)	-

LGF Funding is transferred to the partner authority (ECC) under the terms of a notional agreement due to its dual role as accountable body for SELEP Ltd. It is a requirement that all LGF monies transferred are used for the purpose for which it has been allocated and meets the conditions of the grant. Any LGF transferred may be required to be repaid to SELEP if the conditions are not met. A back to back agreement will be put in place between ECC and the University containing the following conditions:

- No grant funding will be paid unless ECC is satisfied that such payment has been used for proper expenditure in the delivery of the projects and in accordance with the agreed budget and timings;
- The requirement to repay all or part of the funds received if the SELEP Accountability Board requests so.
- Cost overruns are to be covered by the Scheme Promoter (the University).

Where a project is being delivered by a partner ECC will seek to limit its financial risk should the organisation fail to deliver the project or the outputs, In this case

ECC has secured a letter of representation from the University's chief finance officer.

5.2 Legal implications

5.2.1 The Council receives the LGF from SELEP for passporting to recipients in accordance with the terms of the Local Growth Fund. The contribution to the Project has been approved by SELEP.

5.2.2 The University will be required to enter into a grant agreement with the Council. Conditions of the grant will include ensuring that payment has been used for proper expenditure and in accordance with agreed budget and timings. Cost overruns will be the responsibility of the University and any unused grant will be returned to the Council.

5.2.3 The main risk to ECC would be if planning permission for the Project could not be obtained. Payment of the grant should be conditional on this being obtained.

6. Equality and Diversity implications

6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

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

7. List of appendices

7.1 Appendix A – Equality Impact Assessment

8. List of Background papers

- 8.1 Full Business Case and associated appendices for the application to SELEP for Local Growth Funding for the Parkside Phase 3 Project.

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	
Report authors: Councillor David Finch, Leader of the Council	
Date: 16 March 2021	For: Decision
Enquiries to: Andrew Cook – Director, Highways and Transportation email andrew.cook@essex.gov.uk or Gary MacDonnell - Programme Manager M: 07415 791950 email: gary.macdonnell@essex.gov.uk	
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
Capital Programme Adjustments required	£000	£000	£000	£000	£000	£000	£000	£000
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
Funding								
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 pre-requisite 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).

Forward Plan reference number: FP/966/01/21

Report title: Reablement at Home Contract 2021 – 2024	
Report to: Cabinet	
Report author: Councillor John Spence, Cabinet Member for Health and Adult Social Care	
Date: 16 March 2021	For: Decision
Enquiries to: Moira McGrath, Director of Commissioning moira.mcgrath@essex.gov.uk or Matt Barnett, Head of Commissioning, Matthew.barnett@essex.gov.uk	
County Divisions affected: All Essex	

1 Purpose of Report

- 1.1 One of Essex County Council's key aims is to enable as many of our residents as possible to live independently at home in the later years of their lives. Reablement, which is an essential, independent, at-home service, helping people to regain skills after a stay in hospital, substantial change in needs, or to prevent a hospital admission, is a key element in that strategy.
- 1.2 The purpose of this report is to seek approval to direct award a contract for the Reablement at Home Service to Essex Cares Limited (ECL).
- 1.3 This contract gives an important opportunity to continue to work towards integration through joint commissioning between ECC and NHS Clinical Commissioning Groups (CCGs), whilst supporting the improvement plans being implemented through the Connect programme¹.
- 1.4 Awarding the contract to ECL at a time of substantial market changes will give both continuity and stability of arrangements and the best possible opportunity to secure positive outcomes for the citizens of Essex.

2 Recommendations

- 2.1 Agree to award the Reablement at Home Service Contract to Essex Cares Ltd (trading as ECL) for a three-year term commencing 4 May 2021 on terms which allow the Council to terminate after two years.

¹ The Connect Programme is a significant change programme to improve the intermediate care system across the NHS and Social Care over the next 12-18 months, to help more people access the right support at the right time and to achieve the best possible outcomes. Both ECC and CCGs have invested into this programme as set out in previous cabinet paper (ref decision FP/776/07/20)

- 2.2 Agree to the contract being structured to secure a minimum volume of people through the service with contractual targets to improve both these volumes and delivery of outcomes.
- 2.3 Agree that the contract will include a contractual provision whereby ECC may require the capacity of the service to be increased temporarily or permanently if there is an increase in demand and that any decision to change the capacity will be taken in accordance with the constitution.
- 2.4 Agree the minimum contract value of £18.3m per year for the 3-year term, plus up to 10% variable operational capacity at a marginal rate worth a maximum of £1.5m per year.
- 2.5 Note that work undertaken with the Connect Programme may lead to a recommendation that work is transferred from other services into this contract
- 2.6 Note that ECC is the primary commissioner for the contract with ECL and will take a lead role in contract management. ECC will establish local arrangements to ensure delivery of specification with our NHS partners.

3 Summary of issue

- 3.1 The population of Essex is ageing, and with more people living for longer with multiple, and in some cases, complex needs, the demand for adult social care is increasing. 21% of the Essex population is already aged over 65 and this will grow to 25% by 2032.
- 3.2 The Council's vision is for every adult to be able to live as independently as possible and to enjoy a good and meaningful life. The Adult Social Care (ASC) Business Plan sets out five priority programmes to enable the Council to achieve this vision, including a programme to transform community care.
- 3.3 Reablement at Home is one of several services which provides short term support to people leaving hospital, or to prevent hospital admission, following a change in their needs and forms part of our statutory duties to provide care for eligible adults. Reablement is important because, rather than encouraging dependency on services, it aims to provide intensive short-term support to enable people to live as full lives as possible before either withdrawing services or providing the services which the person needs.
- 3.4 There is currently a need to supplement the ECL contract, by commissioning fixed priced contracts for services known as 'In-Lieu of Reablement' (ILOR), 'Bridging' and individually purchased packages of domiciliary care through the Live at Home Framework (Spot ILOR). This is not optimal because it can create hand-offs and overly complex placement processes.
- 3.5 Reablement is jointly commissioned with Clinical Commissioning Groups (CCGs) and there is a Section 75 agreement between the parties which sets out the financial arrangements for this joint commissioning. ECC takes the lead role in

contracting. The existing reablement contract is with ECL and, in 2020/21, is forecast at £17.3m with a further £3.9m expected spend on block arrangements with ILOR providers, and £2m on Spot-purchasing ILOR. Spend on reablement services is supported by CCG contributions via the Better Care Fund (£10.8m), with ILOR supported through the winter pressures grant (£3.8m), and the remaining balance the responsibility of ECC through core budget within Adult Social Care.

- 3.6 The future ambition for intermediate care in Essex is to adopt a common set of principles across the county that improve outcomes for people in Essex, promoting independence. This is being supported by the Connect Programme to make improvements across the intermediate care system, including reablement. The Connect Programme (ref decision FP/776/07/20) will implement action plans for the Reablement at Home service over the next 12 – 18 months. This will lead to proposals to reshape the service and the wider system, also making recommendations for the future beyond the end of the contract in 2024. System partners, ECC and ECL are engaged and in agreement with the future direction for intermediate care. There is a commitment across partners to develop a new, evolving service which will be flexible to the needs of their local system requirements.
- 3.7 ECL has been delivering ECC's Reablement and Short-Term Care in the Community services since taking over from Allied Health in December 2018, when Allied became financially unviable and were unable to deliver the contract as per specified terms and conditions. The current contract with ECL expires on 3 May 2021. The current contract operates on a block basis whereby ECL has to provide a guaranteed number of hours and ECC has to pay for those hours. The current block will reach its maximum level of 9,350 hours in March 2021 for the current contract, with additional payments made on actual hours delivered and flexibility to deliver to an agreed marginal upper limit of 10,080 hours per week. The hours are divided between each of the five locality areas, which was set in line with previous demand and supply information.

Statement of ambition and proposals for the new contract

- 3.8 The ambition is that the new contract period is used to establish integrated provision, alongside NHS partners, which includes reablement, community health and other local provision, to better support independence in the home as an alternative to avoidable hospital admission.
- 3.9 It is proposed to award a three-year contract to ECL. ECL is wholly owned by ECC and therefore we can directly award contracts to it. Commissioners are keen to allow ECL greater flexibility to deliver outcomes within key principles and approaches, rather than prescriptive time and task-based contracts. A block contract with measures and targets aligned to those tracked in the Connect Programme i.e., a guaranteed minimum number of people finishing reablement services each week and effectiveness is a way to emphasise this. A wider suite of measures will also be tracked to provide further intelligence and support operational practice i.e., hours, starts, complexity of case mix, with operational tolerances throughout.

- 3.10 By stepping away from hours to a fixed-price contract to ensure capacity to cover a guaranteed minimum number of service users, ECC is still offering surety of income, whilst using a leaner and more agile contracting mechanism and the opportunity for ECL to focus on efficiency and the development of more systemic approaches to support outcomes. This approach paves the way for a transformation exercise in 2024, at which point ECC commissioners aim to see that this contract with ECL forms part of an integrated, independence-at-home solution, potentially secured by alliance contracting, where organisations come together to jointly commission solutions which are mutually beneficial for the local population.
- 3.11 Reablement capacity (agreed maximum delivery hours) has been ramping up to meet demand pressures throughout 2020 and is increasing by 150 hours per month with 9,350 hours per week being achieved in March 2021. It is proposed that the new contract is baselined against the current costs of 9,350 delivery hours per week (with an inflationary price uplift of 2.2% against the March 2021 value, from contract inception, in line with other inflationary uplifts across the sector) in order to fit within budgetary constraints.
- 3.12 Under the proposed contract ECL will be required to meet targets related to achievement of volumes and effectiveness. Baselines are set out below, per quarter. The work taking place within the Connect programme will support improvement in NHS discharge pathways and with the processes for sourcing of ongoing care where needed on exit from reablement. On the basis of this work, the initial volume target within this proposed contract will be to increase people finishing the service per week by 21.6% by the end of September. In addition to there being more numbers, it is expected that the revision of pathways will lead to a reduced average time per resident in reablement. This reduction will enable the 21.6% increase in volume to be accommodated within existing capacity, except in Mid and South Essex, where the 5% capacity increase is being recommended.

Referrals Accepted – number of adults accepted as appropriate for reablement	3,334
Starts – number of adults who start a programme of reablement	2,503
Finished – number of adults who finish their programme of reablement with any recorded outcome (including self-funding their own care, self-caring, moved on to longer term care arrangements)	1,897
Self-caring – number of people who finish their programme of reablement and do not need any further statutory care.	1,057

- 3.13 Stretch targets will be set and agreed with ECL for contract commencement with key performance indicators (KPIs) and management indicators (MIs) in place to support analysis of delivery against contractual parameters shown above.
- 3.14 It is accepted that the reablement offer within the wider health and care system will need to change during this period of redesign. We will engage with ECL and partners to offer assurances for the new contract, including how we can better

collaborate and integrate to deliver an improved intermediate care offer over the coming contract period. This will allow a whole system approach to evolve over the next three years to meet the requirements of each locality and to ensure that our adults achieve the best outcome for them to maintain their independence. An action plan will be developed in the Connect programme with partners to move towards this vision, with regular reviews of progress being reported across the partnership.

- 3.15 We expect the Connect project to improve volumes flowing through the service. The Connect programme is a programme of work with NHS partners which aims to improve and co-ordinate intermediate care services such as reablement. Initial work has produced a forecast that the Connect programme will lead to an increase in the number of people moving through the service per week – both starting and finishing - of 21.6%, thereby helping to manage pressures within the acute and community health and care systems. This programme will be coupled with a systemic improvement plan, in partnership with ECC and NHS stakeholders, to ensure the right cases flow into reablement and that it is appropriately positioned within the wider intermediate care system with a growing focus on admission avoidance. Any opportunities to increase throughput beyond this will be actively sought to multiply benefits across the county.

- 3.16 The current delivery hours are apportioned as follows:

Locality	March 2021 block
Mid	1,710
North	2,280
South-East	1,940
South-West	1,940
West	1,480
Total	9,350

- 3.17 The new service will have a similar budget for each locality, although it will not be structured on hours but on capacity. Analysis shows that there may be some flex required to the current allocation of resource to ensure that demand pressures are met within each locality. It also needs to be taken into account that 2020/21 has not been a typical year due to the global pandemic.
- 3.18 It is proposed that within this contract, ECL will have the ability to redistribute capacity according to demand, through discussion and agreement with ECC, post service optimisation. Demand will be analysed through performance information and any discussions regarding redistribution of funding will be carried out in consultation with partners and agreed at quarterly contract management meetings.

Temporary changes to the size of the contract

- 3.19 There are likely to be pressure periods in the service where capacity needs to increase. This is particularly likely in winter, but it could apply at any time and in

fact we believe that there is likely to be a pressure in the Mid Essex locality from the start of the contract in May 2021.

- 3.20 It is proposed that where there is insufficient capacity within the contract to meet a surge, ECL will be able to evidence this, and the capacity may be increased temporarily to manage flow. It is likely that no increase will be larger than 10% in each locality. Any increase in the block, or diversion from one area to another, will need to be agreed by ECC.
- 3.21 With respect to Mid Essex, it is proposed that from May 2021 the contract is increased by 5% above base from the start of the contract, with volumes to be agreed with ECC prior to contract signature.

Longer term changes to the contract

- 3.22 Once improvements planned through the Connect programme have been embedded in Summer 2021, ECC, ECL and Connect, in discussion with partners, will seek to review capacity demands across the system to identify if resource should be re-allocated across localities and whether baseline contributions are at an appropriate level. Longer-term solutions can then be developed with partners with agreements made regarding how to meet the demand pressures within Mid Essex on a longer-term basis, seeking support from system partners and other intermediate care service offers.
- 3.23 If Commissioners are satisfied that the contract is performing effectively and has the capacity to grow and that growth would align with strategic objectives, then a decision to increase the size of the block can be taken.

Management of the proposed contract

- 3.24 The proposed funding allocations are set out in the financial implications. The CCG contributions to the block contract are made through the Better Care Fund. They are lower than the proposed proportion of total contract spend within each locality, with the remainder funded by ECC. This gives ECC some autonomy to flex funding across localities in line with demand, after Connect programme improvements are implemented and efficiencies are released.
- 3.25 A service specification has been co-produced with system partners, which gives consistency of offer across the county but allows for more localised adaptation of what is required, to best meet the needs of the local population and work effectively within local systems.
- 3.26 A suite of management information and KPIs, along with system-owned KPIs (where partners hold joint responsibility for delivery), have also been developed with partners for implementation with the contract. KPIs are aligned to those tracked in the Connect programme i.e., number of finishers per week and effectiveness of support i.e., the number of hours an individual's needs are reduced by from initial assessment to exit. A wider suite of measures will also be tracked to provide further intelligence and support operational practice i.e., hours, starts, complexity of case mix.

- 3.27 It is anticipated that quality and performance measures will change over the contract term with agreement from all to ensure they are fit for purpose and enable the service to be reviewed on quality-based outcomes, giving local accountability and visibility of performance. Appropriate forums have been identified to monitor and improve system-wide performance against the system KPIs. There will be accountability from ECL towards these local Boards, set as an expectation in the contract, with escalation routes agreed between ECC and NHS partners in the event of any issues needing to be resolved at a countywide senior level.
- 3.28 The provision of timely, transparent intelligence will be an ongoing subject for review during the life of the contract. A solution for how this is delivered for day 1 of the contract will be agreed by May 2021 and an approach has been developed to reach such an agreement.

4 Options

Option 1 (recommended): Direct Award 3-year contract term to ECL, with a break clause at 2 years should either party wish to exit sooner using a flexible block contract arrangement as set out in section 3 of the report.

- 4.1 ECL is the current Reablement provider and fully engaged with the Connect programme which has been embedding service improvements across intermediate care services since winter 2020. Changes are being scoped for the next 12-18 months. Remaining with ECL gives consistency throughout the change programme and the greatest chance of successful outcomes.
- 4.2 A three-year (with break clause at two years) contract allows sufficient time for service improvements to be embedded and to evidence responsiveness to seasonal pressures. It also gives system partners sufficient lead-in time to adapt working practices and align their models to new ways of working, which is critical given the global pandemic.
- 4.3 The break clause at two years gives the ability to exit the contract should local systems be mature enough to implement an alternative model for intermediate care.
- 4.4 While the blended hourly rate for ECL is more expensive than 'ILOR' providers, the ECL service offers added value including an integrated therapy offer, which ILOR does not, so the higher rate is to be anticipated. In addition, feedback from frontline teams also suggests that cases supported via ILOR provision require more input from ECC's own occupational therapists, making the actual, overall cost to the system of ILOR higher.
- 4.5 Commissioners are satisfied they are getting best value from ECL compared with other local authority rates and, in addition, ECL investment into the Connect programme will drive an improved return on investment via achievement of volumes and effective targets. Feedback from tender processes, which have

taken place in other local authority areas, also suggests that ECCs reablement costs represent comparative value to the council.

- 4.6 Outcomes are consistently better in ECL reablement than alternative services in Essex, those being ILOR, and spot purchased ILOR from domiciliary providers. And comparison with ILOR block contracted providers shows:
- With the exception of South East Essex, length of stay is consistently lower with ECL than the ILOR provider
 - On average individuals' length of stay (LOS) is 5% lower in ECL during the baseline months (July-September)
 - Average length of stay (excluding South East) is 15% lower in ECL.
 - ECL starts cases in 22% less time than ILOR providers, however this is heavily skewed by the West ILOR provider performance in this area. Nonetheless, this responsiveness adds value to the Essex health and care system via timely discharge from acute provision.
 - Individuals exiting ECL were twice as likely to achieve a self-caring result. This outcome was sustained following 90 days' lapse in time.
 - Cases allocated to ECL are, on average, slightly more complex, though ECL may have scope to select cases given they are the default route for referrals.
- 4.7 In conclusion, assurance on best value has been achieved by drawing together information from across the board. This includes rates benchmarked against alternatives within Essex; comparative performance on measures of responsiveness, length of stay and case mix; and achievement of outcomes for the individual, which in turn provides a return on investment via avoiding recurrent costs to care and health budgets.

Option 2 (not recommended): Full open market procurement.

- 4.8 There is insufficient time to conduct a full procurement to align with the end of the current contract as we are unclear on the outcomes of the Connect programme. Approaching the market now could result in sub-optimal system given the scale of change proposed, staffing resources required, and disruption caused by moving to other providers
- 4.9 The 'in lieu of reablement' tender has shown that there is a limited market to deliver this type of service, especially within North Essex and that, although costs may be cheaper, outcomes are sub-optimal.
- 4.10 ECL is also investing significant time and resources into supporting the Connect programme, which gives added value to their hourly rate, which is based on front line service delivery hours.

Option 3 (not recommended): Do Nothing

- 4.11 ECC would need to purchase support via the Live at Home framework, resulting in a mix of providers offering support. This could result in differing quality, postcode lotteries and a loss of oversight. There would be significant training requirements across the market to deliver a reablement model of outcome-

focused short-term support. There would be a risk of losing key elements of the service, possibly with a centralised reablement service e.g., therapy. New systems, processes and payment mechanisms would need to be developed to ensure the management of cases to ensure that people are exiting / reducing provision.

- 4.12 Live at Home providers have evidenced suboptimal outcomes in comparison to reablement in delivering spot purchased ILOR.

5. Financial implications

- 5.1. The council is forecast to spend over £23m on reablement and ILOR services by the end of 2020/21. This includes £17.3m on the current reablement contract with ECL.
- 5.2. Due to historic arrangements (set out earlier in the report) the existing contract with ECL is made up of two elements, which have distinct funding streams: Short Term Support in the Community is a fixed block value funded by the Council through the Adult Social Care revenue budget while the Reablement element is funded largely through CCG contributions to the Better Care Fund (£10.8m). Expenditure above this level is the responsibility of the council to fund.
- 5.3. The recommended option proposes a new contract encompassing both elements of the existing service with updated specification and an expected annual value of £18.3m, therefore worth £55m over 3 years. This is containable within the council's budget for 2021/22 and in future years through the Medium-Term Resource Strategy (MTRS).
- 5.4. In addition, the ability to increase operational capacity to meet surges in demand by up to 10% (valued at up to £1.5m annually) will be included, charged on a marginal basis and reconciled monthly. This is proposed to be funded in 2021/22 from a non-recurrent contingency budget held within the overall BCF (subject to agreement). It is not expected to be fully utilised except to address acute periods of exceptional demand. Assuming utilisation above block is an average of 5% additional capacity for the 2021/22 financial year, this would incur an estimated additional spend of £700,000. There is a risk that this funding requirement continues into future years and would need to be managed as part of the overall Adult Social Care budget and intermediate care offer (with system partners) including, but not limited to, ILOR and community health providers. This should be mitigated through improvements in throughput and effectiveness expected to be implemented within the first year of the contract as part of the Connect programme. Activating the secondary tolerance would be subject to further governance including identification of funding.
- 5.5. CCG mandatory minimum contributions to the Better Care Fund (BCF) in 2021/22 will be 5.3% higher than in 2020/21. This is a national figure in line with the NHS Long Term Plan settlement, but the NHS funding formula will mean variation in the exact uplift percentage applied to each of the five BCF partner CCGs. This will be published by NHS England in due course.

- 5.6. The table below sets out the proposed initial annual contract value (i.e., excluding 10% additional capacity) and associated funding streams, in comparison with the arrangements in place for the 2020/21 financial year. The precise proportions for 2021/22 are subject to publication of CCG contributions and BCF governance. Note that the new contract will replace the existing one on 4 May 2021 and not the start of the financial year, whereas the costs illustrated are the full year effect, but total expenditure is not expected to be materially different.

Reablement	Funding Source	2020/21 Forecast £000	2021/22 Proposal £000
ECL Expenditure		17,316	18,330
CCG Contribution	BCF	10,832	11,406
ECC Contribution	ECC	6,484	6,924
Funding		17,316	18,330

N.B. the £23m expenditure in 2020/21 referenced in paragraph 5.1 is inclusive of the £17.3m above, with the balance of expenditure on ILOR services.

- 5.7. The existing contractual arrangements set out a 'ramp up' profile, i.e., increasing capacity through stepped changes in the block value on an agreed trajectory. The weekly block hours at the end of the term are therefore higher than the start, and this growth is reflected in the increasing spend profile. The proposed contract starting in May 2021 is not planned to incorporate further growth in service hours delivered, but instead accommodate increased demand through efficiencies implemented in partnership with the council and Newton Europe through the Connect programme. The target is that 21.6% more people will move through the service once it is optimised, and this will be monitored as part of a suite of measures. Performance against this and other contract measures will support informed decision making around potential contract additions and uplifts from year 2. The contract will include necessary clauses to ensure redress should performance and quality not be at acceptable levels.
- 5.8. The current reablement service has delivered a measurable reduction in the ongoing care requirements of adults, including the number who discharge from the service as self-caring. Improving the effectiveness of reablement is a major objective of the Connect programme. Greater volume of throughput allows the opportunity to deliver improved outcomes to more people, resulting in an avoidance of cost for higher packages of care if the service were not available. The continued work with ECL is crucial to the delivery of the objectives of Connect as one of the council's major savings programmes, which is planned to deliver over £16m savings in ongoing care by 2023/24 through more independent outcomes for older adults.
- 5.9. The initial contract will include a review point at the end of year 1 to consider efficiencies achieved via the Connect programme and evidence of real cost increases and may be subject to inflationary-driven price negotiation for years 2

and 3, which will need to be contained within the MTRS. There is a risk that cost pressures will occur due to exceptional circumstances, such as increasing costs due to COVID-19-driven pressures such as PPE, but this would likely be experienced by providers across the care market and could lead to a conversation regarding additional uplifts which, if agreed, would be subject to further governance including identification of funding.

6. Legal implications

- 6.1 It is lawful to award directly to ECL using exemptions under Regulation 12 of the Public Contracts Regulation 2015, which allows ECC to directly award the contract to ECL as ECC's wholly owned company, which meets the requirement of that regulation.

7. Equality and Diversity implications

- 7.1. The Public Sector Equality Duty applies to the Council when it makes decisions.
- 7.2. 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.
- 7.3. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.4. The equality impact assessment indicates that the proposals in this report **will not** have a disproportionately adverse impact on any people with a particular characteristic.
- 7.5. The reablement service is for Adults aged 18 and over, who have been assessed as requiring an Intermediate Care service and as such does not make any exclusions to any minority groups.
- 7.6. The service aims to promote recovery and maximise the ability to live independently. It is a preventative service providing a short intervention of

provide personalised support, working in conjunction with the adult and their support network to

- a. prevent or delay further deterioration
- b. reduce the need for support in the future
- c. maximise independence and
- d. meet aspirations

8. List of Appendices

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9. Background Papers

None

Forward Plan reference number: FP/915/12/20

Report title: Response to Climate Action Commission's Interim Report	
Report to: Cabinet	
Report author: Councillor David Finch, Leader for Essex County Council	
Date: 16 March 2021	For: Decision
Enquiries to: Sam Kennedy Director, Environment and Climate Action Samantha.Kennedy@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 Essex County Council (ECC) established the Essex Climate Action Commission in May 2020 to set out a roadmap in response to evidence that climate-change is the single, biggest issue facing Essex.
- 1.2 The Commission published its Interim Report in October 2020, which brought together their recommendations from the meetings held to date on the following themes:
 - Adapting to an already changing climate;
 - Transport; and
 - the Built Environment.
- 1.3 The Interim Report was welcomed by Cabinet on 24 November 2020. At that meeting, Cabinet agreed that a more detailed and considered response to the Commission's interim report was to go to Cabinet in early 2021, which would include those recommendations that can be agreed as priorities to action as opposed to those which require a more significant action plan to be developed, discussions with partners or a more detailed cost analysis.
- 1.4 This paper is ECC's formal response to the Interim Report of the Climate Commission, recognising that work in this space continues at pace and therefore the actions listed are not exhaustive.

2. Recommendations

- 2.1 Note the current programme of climate action (Appendix A) we are making in response to the recommendations made in the Essex Climate Commission's Interim Report.
- 2.2 Agree that ECC has a policy to transform its estate to have Net Zero greenhouse gas emissions by 2030 ; creating an electric vehicle strategy for Essex; and the setting up of a Net Zero innovation network.

- 2.3 Agree that officers will report annually to Cabinet on Essex County Council's greenhouse gas emissions and climate resilience measures.
- 2.4 Agree that officers will report annually to Cabinet on greenhouse gas emissions and climate reliance measures across Essex.
- 2.5 Agree that Cabinet Members will bring an update, on a rolling rota basis, on progress made in their portfolio to address the climate challenge, following the publication of the final report of the Climate Commission in summer 2021.

3. Summary of issue

- 3.1 Climate change is the single biggest threat facing Essex. The UK is statutorily committed to achieving Net-Zero greenhouse gas emissions by 2050 (referred to in the report ongoing as Net Zero). Essex continues to experience the impacts of a changing climate year on year with increasing levels of flooding, drought and overheating.
- 3.2 The Climate Action Commission was announced in October 2019 by the Leader, and the inaugural meeting was in May 2020. The Commission's Interim Report, published in October 2020, set out the first suite of ambitious recommendations for Essex, which would enable a move towards Net Zero.
- 3.3 This was welcomed by Cabinet on the 24th November 2020. Cabinet agreed the recommendations highlighted below were a priority.
- 3.4 The Commission's recommendations are not simply for ECC, but embrace actions by District, Borough, City, parish and town councils; businesses, residents, charities and community groups. The ECC response includes working with partners and stakeholders; supporting businesses, residents and communities to take action; and lobbying Government for key policies and funding support.
- 3.5 ECC has and continues to develop a significant programme of work to respond to the Commission recommendations, which is set out in Appendix A under a number of key areas - Green Recovery, New Homes & Communities, Existing Buildings and Regeneration, Resistance to Coastal and Surface Water Flooding and Extreme Weather, Transport and Highways, Energy and Waste, Rural Communities and Land, as well as Community Engagement.
- 3.6 Appendix A is not an exhaustive list. Additional Climate Action is planned, which requires further discussions with partners and/or additional funding discussions. Appendix B lists all of the recommendations made by the Commission in their interim report. It is important to note that a number of these recommendations are for other public sector bodies, businesses, charities, community groups and residents to deliver. However, ECC can certainly play a role in helping facilitate these calls to action.

- 3.7 ECC's programme of Climate Action continues to evolve. The climate crisis is a long running challenge and will not be resolved in a few months. ECC is committed to ensuring that reducing greenhouse gases and building climate resilience is a core part of how ECC manages operations, delivers services and manages procurement in the long term.

4. Options

- 4.1 Do Nothing** – However, ECC has publicly committed to the Climate Change Agenda, first by championing Essex's Climate Action Commission to drive change within Essex, then by allocating funding from the Climate Action Reserve to ensure key Projects are delivered.

4.2 Adopt the response at appendix A

- 4.2.1 The proposed response at Appendix A represents a strong initial response to the Essex Climate Commission's Interim Report. It establishes a new work programme including new key commitments. Particular highlights of the response are:

- We have invested £1.7m as part of our ongoing programme of flood defence improvements and will invest a further £2.6m in flood defences next year, as part of our ongoing commitment to flood defences in Essex.
- We have secured £7.6m funding from Department for Transport for Active Travel in Essex including more dedicated cycleways, walkable neighborhoods and school streets.
- We are commissioning a new compendium on best practice and climate change policies to be incorporated into the Essex Design Guide.
- We have built four new school buildings which are EPC A+ rated and are taking forward a further 9 school building projects which will be low-carbon or Net Zero.
- Working with city, district and borough partners, to secure over £800,000 to install energy saving measures in 80 low income homes across the county by the end of March 2021 under the Green Homes Grant Local Authority Delivery Scheme (GHGLADS).
- We have secured £1.4million to help Essex and other local authorities in England and France move towards a circular economy. Across the next two and a half years, the project will establish a circular economy model for local authorities, upskilling 2,000 socially and economically disadvantaged people, and engaging 78,000 individuals in behaviour change programmes to reduce their waste and increase their recycling rates.
- By the end of this current planting season, the Essex Forest Initiative will have planted 36,805 trees with farmers, charities, city, districts and borough councils, beating the target of 25,000 trees by 48%.
- We have announced a new £1m ECC fund to support residents and communities to take action directly on the climate challenge.

- We will continue to run our successful community energy campaigns – Essex Energy Switch and Solar Together.
- ECC to have **a policy to transform its estate** to have Net Zero greenhouse gas emissions by 2030 (20 years before the government's target of 2050).
- Commitment to produce an Electric Vehicle Strategy for Essex.
- Commitment to setting up a Net Zero Innovation Network (NZIN) to work together to create the partnerships and optimise the appetite for innovation in Essex, focusing on achieving Net Zero outcomes for the County.

4.2.2 The recommended option also includes a commitment that Cabinet Members bring a review of the measures undertaken in their own portfolios to address the climate challenge to cabinet over the next year on a rolling basis, following the publication of the final report of the Climate Commission in May 2021. This will ensure cabinet has full oversight of measures taken and planned across ECC.

4.2.3 As part of the recommended option it is proposed that ECC tracks progress against the net zero targets by producing annual reports showing progress in tackling greenhouse gas emissions and building resilience in its own estate and more broadly across Essex. This will enable ECC to measure its own performance, and also help track how well Essex, as a whole, is moving to a climate resilient, net zero future, in line with the Commission's recommendations.

4.2.4 Lastly, the recommended option recognises that this is an interim response to the interim report and a further full response to the Commission's recommendations will take place after the publication of the final Commission Year 1 report in summer 2021.

5. Links to Essex Vision

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

- Strengthen communities through participation
- Develop our County sustainably
- Connect us to each other and the world

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

- Enable inclusive economic growth
- Help create great places to grow up, live and work

6. Issues for consideration

6.1 Financial implications

- 6.1.1 Decision FP/898/11/20 approved a drawdown from the Climate Change Reserve of £2.5m for additional resource (£2.1m) to support works reflected in 4.2.2 and 4.2.3 that are still to be delivered plus £400,000 of targeted capital investment
- 6.1.2 Flood improvement works are factored into the 2021/22 capital programme at £2.6m.
- 6.1.3 The financial commitments referenced in 4.2.2 have been approved in previous decisions and there are no additional recommendations incorporated in this report which seek approval to incur additional expenditure at this time.
- 6.1.4 There have been no detailed plans presented setting out exactly what will be required to achieve the Net Zero requirement for the ECC estate, detailed plans will be drawn up for future consideration. As such the potential resources to fund this have not been identified within the current medium term resource strategy and there is as yet no approval to spend outside of existing budget.

6.2 Legal implications

- 6.2.1 Individual actions will need to be authorised in conjunction with the constitution. Section 40 of the Natural Environment and Rural Communities Act 2006 the Council is under a duty to have regard to the duty to conserve biodiversity. The aims of the recommendations of the panel are designed to minimise climate change and thus conserve biodiversity.

7. Equality and Diversity implications

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

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

8. List of appendices

Appendix A – ECC's Response to ECAC Interim Report

Appendix B – Full List of recommendations made in the Essex Climate Action Commission's Interim Report

Appendix C - Equality impact assessment

9. List of Background papers

None

Appendix A – ECC’s Response to ECAC Interim Report

The following activities and commitments demonstrate an active and immediate response to the interim recommendations of the Essex Climate Action Commission.

The full range of recommendations made in the interim report can be found in Appendix B. Work is continuing to be undertaken to understand how they can best be achieved e.g. explore funding requirements, partnerships required etc. It should be noted that a significant number of the Commission’s recommendations listed are also for other public sector bodies, businesses, charities, community groups and residents to deliver. However, ECC is committed to working with stakeholders and aims to support businesses and residents in taking climate action.

A green recovery

Whilst supporting our businesses through the current pandemic is a major priority for Essex, we are also planning for the economic recovery when the Covid restrictions ease. It is vital that this is a green recovery at its heart, so that it helps us better tackle the climate challenge and also generates local jobs. Low carbon technologies, green innovation and climate mitigation mechanisms will all see significant growth over the coming years. We want Essex to be a leader in those areas so we can better attract new businesses, whilst also helping existing businesses grow and diversity, creating jobs for our residents.

New homes and communities

- We are commissioning a new chapter on best practice and climate change policies to be incorporated into the Essex Design Guide.
- We have secured a South East New Energy (SENE) £3.1m grant for £6.4m project supporting Modern Methods of Construction/Low carbon housing to build a stronger local energy economy and contribute towards more environmentally friendly building practices. University of East London will lead the project with ECC as one of three partners.
- We have built four new school buildings which are EPC A+ rated and are taking forward a further 9 school building projects which will be low-carbon or net-zero greenhouse gas emissions.

Existing buildings and urban regeneration

- We have produced a ‘road to net zero’ plan which sets out a route to retrofitting our core estate to deliver a net zero greenhouse gas emission estate by 2030 and are working to establish additional investment required to deliver this. We have received £564,000 in grant and loan funding from central government for our estate and have applied for a further £4.7m. ECC has a policy to transform its estate to have Net Zero greenhouse gas emissions by 2030.
- We are working with Essex schools and utility companies to roll out smart meters in nearly 200 schools as soon as possible with a large number having

already been completed.

- As part of our future schools' capital maintenance programme, we will ensure that energy efficiency is a key consideration in the solutions that we deliver. We have committed to working closely with schools to secure funding for major retrofit projects.
- Working with city, district and borough partners we have secured over £800,000 to install energy saving measures in 80 low income homes across the county by the end of March 2021 under the Green Homes Grant Local Authority Delivery Scheme (GHGLADS).
- ECC launched a year-long campaign in January 2021 to promote both GHGLADS and the Green Homes Grant to households (including targeted advertising amongst disadvantaged groups) and eligible installers in Essex.
- We also have £859,000 grant funding to provide energy and financial wellbeing advice with Citizens Advice Essex.
- Following on from the approval of £26m in Government Getting Building Funding on Essex projects in late 2020, ECC is continuing to support the delivery of the 13 projects to support growth and jobs in our area. These projects will be completed by March 2022 and deliver a range of improvements including transport and digital infrastructure, new workspace and skills facilities.
- ECC supported bids by Harlow District and Colchester Borough Councils for £25m in Towns Fund monies from Government. The bids were submitted in late October 2020 and we await the Government's response in the next two months. They include a number of projects that would be delivered by Essex County Council including improvements to public transport and public realm, along with enhanced digital skills provision.
- Essex County Council has committed £5m in a £50m Investment Fund in Harlow Town Centre. Working alongside Homes England, Harlow District Council and Places for People the investment will deliver housing, infrastructure and public realm improvements to key town centre sites over the next five years, supporting Harlow's wider growth and transformation.

Resistance to coastal and surface water flooding and extreme weather

- We have invested £1.7m as part of our ongoing programme of flood defence improvements. We will invest a further £2.6m in flood defences next year as part of our ongoing commitment to flood defences in Essex. For both financial years we look to generate 50% of the total budget from external funding and grants.
- We have secured £471,500 from the Environment Agency's Flood Defence grant in Aid and Local Levy to protect approx. 250 residential properties at risk of flooding in Essex over a period of 6 years under our 'Property Flood

Resilience' Grant Scheme By the end of March 2021, we will have installed 450 Property Level Resilience schemes since the Essex grant initiative began in 2017.

- In the last year we have provided advice on 500 planning applications improving Sustainable Urban Drainage Systems (SUDS) on over 62,000 properties.

Transport and highways

- We secured £7.6M funding from Department for Transport for Active Travel in Essex including dedicated cycleways, walkable neighborhoods and school streets. This built upon the work we did in 10 locations to extend footpaths, facilitate social distancing and making it easier and safer to walk and cycle
- We supported the successful £5.3m bid to Innovate UK to bring forward the UK's first electric vehicle charging station which opened in Braintree in December 2020. This is entirely powered by renewable energy.
- We are creating an electric vehicle strategy for Essex.
- We have conducted a Fleet Electrification Review to consider the path forward for ensuring vehicles used in delivering our services are all hybrid or electric and have committed to introducing EV into our own fleet this year.
- As the Authority's figurehead, we are working towards replacing the Chairman's vehicle with a more eco-friendly solution before the end of this year.
- Hot asphalt, or warm tarmac, which is 50 degrees cooler than conventional materials, is being piloted by our Essex Highways teams. It uses less energy and typically reduces greenhouse gas emissions by 20-40%. We have trialled using this for resurfacing roads on the A13, east of Hadleigh high street, saving 20% on energy costs and reducing carbon emissions.
- Since launching on 6 July 2020, Stop.Swap.GO!, our behaviour change campaign encouraging residents to walk and cycle, has reached over 1 million people. Our 60 day challenge demonstrated potential for 307 million fewer car miles to be driven every year, when results were extrapolated across the county's population.
- We introduced our first e-scooter trial in Basildon in December, the first of six locations. So far riders have amassed more than 1,300 trips so far - despite strict lockdown restrictions.

Energy and Waste

- We have secured an extra £1.3 funding for a further phase of Low Carbon Across the South East (LoCASE) over the next three years for Essex to help SMEs to reduce their carbon emissions through energy efficiency measures, renewables or investment in EVs.
- Last year, the Essex Energy Switch campaign (Winter 2019) supported 1,644 residents in switching to a 100% renewable energy tariff while saving £425,000 on their energy bills (£258 per household). The current campaign is on track to achieve similar results with 3,413 households registered (as of 27/01/2021). Each household that switched will reduce their carbon footprint

by an average of 1.16 tonnes carbon dioxide ("CO²") per year. In total for the whole scheme this equates to 1,906 tonnes of CO², which is equivalent to removing 1,059 cars from the road.

- Solar Together delivered solar panels on 305 households: a £1.3M investment saving 7,150 tonnes of carbon over the lifetime of the installations. Residents saved an average of 20% on market rates. A new campaign will be launched on 15th February 2021.
- We secured £250k in funding from "Empower 2.0" - Enabling More People's OWnership in Energy tRansition, funded by the European Commission (Interreg North Sea Region Programme).
- We have installed solar panels on Essex Outdoors Danbury and Danbury Park Community Primary School in October.
- Electricity produced by the solar panels across the two sites is equivalent to the amount of electricity needed to supply 22 average homes. The installations will also avoid 15 tonnes of carbon reductions annually or 375 tonnes of CO² equivalent over the lifetime of the systems installed.
- We are spending a further £1.2m on solar panels for 14 schools by the end of March 2021.
- The South East Local Enterprise Partnership (SELEP) which covers Kent, East Sussex, Thurrock, Southend and Essex has established an emissions reduction target of 3,575 tonnes of CO² equivalent per year.
- We are undertaking a feasibility study to source our own energy use from renewable energy here in the county.
- ECC has submitted a response to MHCLG's consultation on improving the energy efficiency standards of private rented sector homes. In the consultation response we highlighted ECC's climate action aspirations and encouraged Government to go further and more quickly in this area. We will continue to raise our ambitions with Government through future consultations.
- ECC facilitated and brought together local authorities and Housing Associations within Essex to raise awareness of the Social Housing Decarbonisation Fund (SHDF) Demonstrator project which has led to further development of projects and collaborations opportunities. Colchester Borough Council submitted a bid alongside Peabody Housing and is awaiting a decision on the outcome. Further funding through SHDF is expected in 2021/22 of which ECC is keen to drive applications across the county.
- As part of our Love Essex work, we will extend the Cloth Nappy refund scheme to reach more families and to broaden the scope to include toddler age groups.
- We will trial a "Library of Things" to reduce waste by loaning equipment to residents as part of the Blueprint for a Circular Economy project in partnership with the Essex Library Service.
- Also, as part of this project we aim to develop and deliver an intervention to promote reusable and refillable bathroom products. We will develop and deliver an initiative to promote reusable menstrual/hygiene products.
- We have secured £1.4million to help Essex and other local authorities in England and France move towards a circular economy. Across the next two and a half years, the project will establish a circular economy model for local authorities, upskill 2,000 socially and economically disadvantaged people, and engage 78,000 individuals in behaviour change programmes to reduce their

waste and increase their recycling rates. The project team is currently working to engage residents and local authorities and recruit social enterprises. By the end of March 2021, the team will have:

- Completed resident engagement workshops and 50 local authority interviews to inform the development of policies and strategies
- Recruited 18 social enterprises and held an initial workshop to start developing a training scheme for disadvantaged residents

Rural communities and land

- The Essex Forest Initiative will have planted 36,805 trees with farmers, charities, city, districts and borough councils, beating the target of 25,000 trees by 48%
- We are planting nationally rare Black Poplar and Purple Willow in Chelmsford and creating habitat in our wet woodlands for local otters
- This year we completed a water garden and wetland in Basildon Hospital to take water off the roofs of the hospital and prevent flooding downstream. In addition, these new green spaces have been vital to allow staff, patients and relatives to sit outside in Covid-safe conditions and benefit from the peaceful green spaces.
- Essex has been selected by Natural England as one of ten trial projects across England to test the National Green Infrastructure Standards Framework as a result of the action from the 25-Year Environment Plan.
- The Essex Green Infrastructure Strategy was awarded a Building with Nature Accreditation of Excellent – the highest achievable under this accreditation scheme and one of only eight local authorities to have been awarded this accreditation so far.
- We have negotiated a Memorandum of Agreement with the Woodland Trust so we can combine ECC and Woodland Trust funding to offer Local authorities, Parishes, and landowners 90% funding towards the costs of new woodland planting in Essex

Engaging our communities

- ECC is working with partners across Essex to support residents, business and public sector to take action on climate change.
- As part of the Essex Partners Board's mission on 'Sharing Prosperity', partners are exploring their role as anchor institutions including their contribution towards climate action and supporting the environment. Over the forthcoming months, these anchors will be making pledges around this agenda and through a collaborative approach, we will be implementing these into actions.
- We are setting up a Net Zero Innovation Network (NZIN) to work together to create the partnerships and optimise the appetite for innovation in Essex focusing on achieving net zero outcomes for the County. The NZIN will host three core facilitated workshop sessions, the first of which will take place in late February/early March. The work will be hosted throughout the year via three core sessions maintaining progress, sharing information and innovation

and be supported in achieving its goals by task and finish groups working on the big challenges for Essex in achieving net zero. It will work on a maximum of three agreed projects at any one time to take ideas forward to delivery.

- We are in the process of bidding for £600,000 non-match funded transformation funds through the European *ATSI: the Adaptation and Transformation through Systemic Innovation*: a project led by University College Dublin and supported by Anglia Ruskin University.
- ECC recognised that a different model of communication and civic infrastructure was needed to reach people where they are using social media. ECC has invested in a Community Campaign Model, 'Essex is Green,' as part of its approach to public engagement. Essex Is Green is designed to raise awareness of the work of the Essex Climate Action Commission (ECAC). We have achieved this by interviewing ECAC members, including Bishop Roger Morris and Archie Ruggles-Brise and we now have an extensive programme of interviews scheduled for 2021.

Essex is Green channels also feature regular video content from ECAC member Rob Pilley who is set to produce and direct the next Attenborough series and has his own social media channel called Rob's Wild Adventures. Since we launched in July 2020, the Essex Is Green Facebook page has reached more than 5m news feeds. The project is key to helping us to understand the community's sentiments around the themes of the ECAC and to galvanising social action to drive behaviour change around the green agenda with communities across Essex.

Community energy

- Six community groups in Essex are receiving tailored support delivered by Community Energy South as part of the EU grant funded programme LECSEA, to get established and develop a business plan. The groups also get help to access funding such as ECC Community Fund, LOCASE and the Rural Community Energy Fund to build community energy projects such as community owned solar or wind farms, fuel poverty support, energy efficiency advice services, electric vehicle car clubs, etc.). Four additional groups are in discussions to enter this support programme.
- We have announced a new £1m ECC fund to support residents and communities to take action directly on the climate challenge.

Appendix B - Essex Climate Action Commission Interim Report Recommendations

It should be noted that many of the Commission's recommendations are for other public sector bodies, businesses, charities, community groups and residents to deliver. However, ECC is working with stakeholders and aims to support businesses and residents in taking climate action.

Recommendation
New Homes and Communities
All new homes consented to be carbon zero by 2025.
All new schools commissioned to be carbon zero by 2022.
All new commercial buildings to be carbon zero by 2025.
All new schools commissioned to be carbon positive by 2030.
All new homes and non-domestic buildings consented to be carbon positive by 2030.
Active travel prioritised: designing walkable and low traffic neighbourhoods, exploring built-in last mile delivery solutions (among other options), and delivering Walkable Neighbourhoods; workshops to commence from October 2020
Publish a Climate Change Compendium through the Essex Design Guide in 2021
The creation and maintenance of 'Healthy Places' in terms of design, placemaking and place management to ensure these locations both positively contribute to physical and mental health and mitigate climate change
Review highways and transportation policies where they impact on place shaping, the provision of sustainable transport and sustainable construction practices
Sustainable Drainage Systems (SuDS) as the default in all new developments, as set out in the National Planning Policy Framework (NPPF)
A nature-based approach to design and green infrastructure requirements included in local planning guidance
Developers to implement green procurement standards for construction
Engagement and partnership with developers, including the establishment of an Essex Developers' Group to collaborate and set up demonstrators of green construction
Explore the establishment of an 'Energy Sector Alliance and Innovation Hub' to build and develop climate action and resilience-related construction skills
A net zero major demonstrator project by Essex Housing to commence building by 2023
Delivering a Flood Resilience Levy by 2022

Recommendation
Existing Buildings & Urban Regeneration
Incorporate national green infrastructure requirements from the government's 25 Year Environment Plan into local planning
Two-thirds of homes should be retrofitted to net zero standards by 2030
From existing residential buildings, a 50% carbon reduction by 2030 and zero carbon by 2040.
One-third of commercial buildings should be retrofitted as far as is possible with renewable energy systems by 2030
Set goals for reversing the national decline in urban greenspace and include greenspace 'retrofit' programmes in Local Plans
Including water efficiency in energy efficiency retrofit plans
Partnerships with businesses and green construction training for a zero-carbon future
Resilience to Coastal and Surface Flooding and Extreme Weather
Coastal flood resilience schemes in critical areas to be implemented by 2023
The scale and impact of change is acknowledged by those with responsibility for the coast and communicated to the people who live there
A new policy for coastal flood risk and erosion management is drawn up with clear, evidence-based outcomes
SuDS is implemented in all new developments and enforced, with clarity over who adopts and maintains it
A support service on adaptation for businesses is re-established – this could be at local or national government level
Transport & Highways
Introduce three new subsidy-free Park and Choose sites by 2030
Introduce 20 Low Traffic Neighbourhoods per annum from 2022 to 2030
Introduce an additional 20 school streets per year to 2050
Introduce dedicated, well-planned cycling and walking routes across all urban and rural locations, and to all rail stations
Upgrade and expand the National Cycle Network and integrate with existing local routes
Work with business to improve on-site facilities and develop routes
ECC to publicly state its commitment and funding to rebuild passenger transport services hit by market failure since the pandemic
To invest in innovative passenger transport solutions such as demand responsive transport using electric vehicles, aiming for commercial viability
Promote safe and accessible public rights of way
Expand the three existing Park and Ride and school zones projects

Recommendation
Improve cycling infrastructure to/from schools
Introduce school streets for 25 schools by 2022
Introduce six e-scooter pilot schemes across the county by the end of 2020
Introduce emissions charging and/or parking charges in town centres and ringfence income to invest in public transport and active travel schemes
Introduce five workplace levy schemes
Explore car sharing options
Launch county-wide National Car-Free Day
Support innovative solutions for last mile deliveries, introduce 10 local delivery hubs by 2022 and explore options such as retiming deliveries to reduce peak time congestion
Grow the electric vehicle charging network and capitalise on the facilities provided by the new Gridserve electric forecourt to charge and promote electric vehicles to encourage uptake of electrical vehicles (EV Strategy)
Electrify the authority's fleet
Park and Ride: Embed micro-mobility solutions and EV charging points at all sites; use Park and Ride as a stepping stone to public transport and ringfence income for sustainable transport investment.
Energy And Waste
(substantial further recommendations have been approved post the interim report)
Partnership with businesses to support them to move to carbon zero and use green procurement practices, for example promoting the financial benefits of installing renewables and smart meters
A feasibility study into Energy Sector Alliance and Innovation Hub by 2021
Engaging Our Communities
(substantial further recommendations have been approved post the interim report)
Encourage large businesses to disclose physical risks of climate change, using frameworks such as the Taskforce on Climate-related Financial Disclosure, or the Adaptation Reporting Power
Actively promote energy efficiency advice and guidance to communities and businesses, particularly SMEs
For local authorities and businesses to work together to improve on-site facilities for cyclists
For the Essex Developers Group to set up a working group to develop a Climate Change Charter and run demonstrator projects.

Recommendation
Public Sector Leadership
The ECC estate will have net zero greenhouse emissions by 2030
All new schools commissioned to be carbon zero in terms of the operation of buildings 2022.
All anchor institutions (such as universities) buildings to be retrofitted to net zero carbon by 2030
50 per cent of schools retrofitted to net zero by 2025 and 100 per cent by 2030
Installing renewables on public sector buildings
Development of action plans to reduce overheating risk in all schools, care homes, hospitals etc.
Advanced smart meters into all ECC schools by 2021
Optimise energy use in the public estate (25 per cent saving by 2025, 50 per cent by 2030).
Leveraging government funding for decarbonisation, including the £1 billion Public Sector Decarbonisation Scheme
Lobbying Government
All departments across Government to hold climate challenge as central to core ambitions and funding
Government to champion and fund nature-based approaches
Planning policy and building regulations: make net zero and climate resilient standards mandatory for all new homes and buildings
MHCLG to amend building regulations to support net zero, climate resilient buildings
Funding for retrofit to improve homes and resilience infrastructure, including offsetting for historic properties
Re-establish a support service on adaptation for business. A national adaptation support service would be ideal; however this can also be established locally.
Invest in active travel including long term funding for upgrading and expanding cycle networks
Stop fuel duty freeze and introduce 'polluter pays'
Funding for local authorities to deliver increased energy efficiency of the public estate and schools
Enable local government and the Environment Agency to deliver long term and resourced approach to engaging affected communities and stakeholders
Apply more weighting to non-residential properties in the Flood Defence Grant partnership funding process for flood resilience to make it fairer

Forward Plan reference number: FP/995/02/21

Report title: Better Care Fund Plan and arrangements - 2021/22	
Report to: Cabinet	
Report author: Councillor John Spence, Cabinet Member Health and Adult Social Care	
Date: 16 March 2021	For: Decision
Enquiries to: Peter Fairley, Director, Strategy, Policy and Integration; email peter.fairley@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 To seek agreement to vary the six BCF (Better Care Fund) section 75 agreements entered into by the Council with the five Essex CCGs (Clinical Commissioning Groups), to ensure that the use of the mandatory funding contributions for 2020/21 meet the national conditions.
- 1.2 To seek agreement for interim arrangements for the management of the Essex BCF between the end of 2020/21 and the establishment of the new 2021/22 BCF Plan once national planning guidance has been published.

2. Recommendations

- 2.1 Agree to vary the six BCF section 75 agreements to reflect:
 - the national 2020/21 5.3% uplift to the minimum CCG contributions (total Essex BCF £159.7m) as agreed by the Council and the five CCGs but not yet formalised due to the delay caused by Covid-19 pandemic; and
 - the national 2021/22 uplift to the 2020/21 contributions (Uplifted Contributions) which are being uplifted by 5.3% for 2021/22 (total Essex BCF £165.2m).
- 2.2 Agree that the Cabinet Member for Adult Social Care and Health may authorise subsequent variation of the six BCF section 75 agreements to reflect the final allocated contributions (Final Allocations), if and when these are published, if different from the Uplifted Contributions.

3. Summary of issue

- 3.1 The BCF was announced by Government in June 2013. It was intended to provide an opportunity to transform local services through better integrated care and support. Health and Wellbeing Boards (HWBs) have been obliged to submit BCF Plans since then that meet mandated minimum financial values and

demonstrate achievement of a series of NHS England's national conditions. The BCF is overseen by the Health and Wellbeing Board and incorporates funding to support social care (the Improved Better Care Fund) that is subject to conditions that it be pooled into the BCF and used to ease pressures in the health and care system. It also includes the Disabled Facilities Grant.

- 3.2 The BCF funds a range of health and care services including NHS community services and short term support to people leaving hospital or to prevent hospital admission (such as reablement). It also provides the opportunity for collaboration between NHS and local authority partners and investment in new or integrated models of care to support HWB objectives (a summary of the key areas of expenditure is set out in Appendix A). Agreeing the interim arrangements ensures continuity of services and payments to providers in parallel with the progression of the annual NHS planning cycle.
- 3.3 The Improved Better Care Fund (iBCF) is included as part of the wider BCF and is part of the county wide section 75 agreement. It is a grant provided to Adult Social Care from the Ministry of Housing, Communities and Local Government (MHCLG) worth £45m to the Council in 2020/21 and 2021/22. The grant must be used for the purposes of:
- meeting adult social care needs,
 - reducing pressures on the NHS, including seasonal winter pressures,
 - supporting more people to be discharge from hospital when they are ready, and
 - ensuring that the social care provider market is supported.
- 3.4 The Disabled Facilities Grant (DFG) is transferred directly from the Council to the twelve District, Borough and City councils to allow them to discharge their statutory duty with regard to DFGs.
- 3.5 The Spending Review 2020 confirmed that the iBCF grant will continue in 2021/2022 and be maintained at its current level (£2.077 billion). The Disabled Facilities Grant will also continue and will be worth £573 million in 2021/222022.
- 3.6 The CCGs' contribution will again increase by 5.3% in line with the NHS Long Term Plan settlement in 2021/22.
- 3.7 The Policy Framework and Planning Requirements will be published in early 2021 (this has not happened yet).
- 3.8 COVID-19 Emergency**
- 3.8.1 At the start of the COVID-19 pandemic, Health and Wellbeing Boards (HWBs) were advised that BCF policy and planning requirements would not be published during the initial response to the pandemic and that they should prioritise continuity of provision, social care capacity and system resilience and spend from ringfenced BCF pots based on local agreement in 2020/21, pending further guidance.

- 3.8.2 Given the ongoing pressures on systems, it was confirmed in December 2020 that formal BCF plans will not have to be submitted to NHS England and NHS Improvement for approval in 2020/21. HWB areas must, however, ensure that use of the mandatory funding contributions (CCGs minimum contributions, iBCF grant and the DFG) has been agreed in writing, and that the national conditions are met.
- 3.8.3 The Council continued to use BCF funding under the six section 75 agreements in compliance with the law and guidance and agreed with the CCGs to apply the Uplifted Contributions for 2020/21. This report is seeking to formalise those arrangements already agreed, now that it is confirmed that no further guidance will be issued for the 2020/21 financial year.

National Conditions

- 3.9 The National Conditions for the BCF in 2020-21 are that:
- 3.9.1 **Plans covering all mandatory funding contributions have been agreed by HWB areas and minimum contributions are pooled in a section 75 agreement.**
The plan will be presented to the Health and Wellbeing Board on 17 March. The funds will be pooled as necessary through the recommendation to vary the six section 75 agreements.
- 3.9.2 **The contribution to social care from the CCG via the BCF is agreed and meets or exceeds the minimum expectation.**
The 2019 spending round confirmed that contributions to social care from CCGs via the BCF for 2020/21 should increase by 5.3% nationally in line with NHS revenue spend. For the Essex HWB area the minimum contribution from the five CCGs is £40.928m and this condition is met within the plan.
- 3.9.3 **Spend on CCGs commissioned out of hospital services meets or exceeds the minimum ringfence.**
The CCGs commissioned out of hospital services exceeds the minimum ringfence of £29.222m set out in the BCF allocations published by NHS England.
- 3.9.4 **CCGs and local authorities confirm compliance with the above conditions to their Health and Wellbeing Boards.**
As stated in paragraph 3.9.1, the BCF plan will be presented to HWB on 17 March.

3.10 BCF Arrangements

- 3.10.1 The Council manages the six Essex BCF Pooled Funds under section 75 agreements with the CCGs that are linked to the BCF Plan. Under these arrangements the Council is responsible for making payments to NHS-commissioned providers of BCF services on behalf of the CCGs. These are estimated to amount to over £43.6m in 2021/22, as set out in the financial

implications. the Council will also receive an estimated £43.1m from CCG contributions to fund social care in 2021/22.

3.10.2 The arrangements for 2020/21 will end on 31 March 2021, but local councils still await the publication of the national guidance and deadlines for development of the 2021/22 Better Care Fund Plan. If these services are going to continue and the Council is going to continue to receive the NHS funding for social care then the Council and the CCGs need to agree interim arrangements to cover the period between the end of the existing Plan for 2020/21 and establishment of the new Plan for 2021/22.

3.10.3 Purchase orders will need to be raised for payments to providers of NHS-commissioned BCF services from 1 April 2021 to ensure continuity of provision and the Council will need to adjust its spending unless the BCF money used to fund social care continues to be received.

3.10.4 The CCGs have been asked to provide letters of assurance confirming that they will underwrite these purchases ahead of approval of the Essex BCF Plan for 2021/22 and provide the Council with sufficient funds to make the necessary payments.

4. Options for the BCF Arrangements

4.1 **Option 1 (recommended):** To approve the interim arrangements and amend the six section 75 agreements to reflect the same and the uplifted NHS contributions.

4.2 This is considered the best option as:

- It allows purchase orders to be raised before the end of March 2021 and the April 2021 invoices for NHS commissioned services to be paid on time.
- The risks to the Council in adopting this approach are low as the CCGs have agreed to provide the Council with sufficient funds to pay the BCF funded providers, and the purchase orders will be raised on the basis that funds will only be released if they have been received from the CCGs.
- The risk of reputational impact on and legal challenges against the Council the Council in not paying the NHS providers on time is high as due to the value of the invoices could cause considerable cash flow issues to NHS providers.

4.3 **Option 2 (not recommended):** Delay amending the six section 75 agreements and wait for NHS England to publish the final allocations for Essex.

4.4 This option is not considered to be appropriate as:

- NHS England has not, at the time of writing this report, issued BCF guidance and financial allocations. It would therefore be unlikely that a draft plan would be available for consideration by Cabinet until at least its May

2021 meeting and that the final plan would not be available for consideration until after that.

- Approval by Cabinet in May 2021 would result in purchase orders not being available for NHS commissioned services until the end May or early June and invoices for the first quarter of 2021/22 not being paid on time.
- The risk of reputational impact on and legal challenges against the Council the Council in not paying the NHS providers on time is high as, due to the value of the invoices, could cause considerable cash flow issues to NHS providers.

5. Issues for consideration

5.1 Financial implications

- 5.1.1 The Council is the pooled fund holder for the Essex BCF. Formal assurance for plans is not required for 2020/21, however local approval of the BCF plan clears the way for the Council and the CCGs to draw up section 75 agreements for 2020/21. This forms part of the national conditions.
- 5.1.2 The minimum CCG contributions were increased nationally by 5.3% in 2020/21. Allocations at CCG level were published by NHSE on 4 February 2020, which confirmed that the average uplift across the five Essex CCGs was in fact 5.36%.
- 5.1.3 The tables below summarise the funding sources and planned expenditure at a countywide and local level for 2020/21.

Better Care Fund Summary	£m
Funding Sources	
Minimum CCG Contribution	102.8
Additional CCG Contribution	-
iBCF	45.0
DFG	11.9
Total BCF Pooled Budget	159.7
Expenditure	
Community Services	61.9
Social Care (min CCG contribution)	40.9
iBCF Meeting Social Care Needs	36.1
iBCF Countywide & Locality Schemes	8.9
DFG funded	11.9
Total Expenditure	159.7

CCG Area Allocations	Community Services	Social Care (min CCG contr'n)	iBCF Meeting Social Care Needs	iBCF County-wide & Locality Schemes	DFG funded	Total
Basildon & Brentwood	11.4	7.2	-	0.1	1.9	20.6
Castle Point & Rochford	7.4	5.1	-	0.1	1.4	13.9
Mid Essex	15.0	10.6	-	0.2	2.8	28.5
North East Essex	15.2	9.6	-	0.1	3.8	28.8
West Essex	12.9	8.4	-	0.2	2.1	23.6
Subtotal - Locality	61.9	40.9	-	0.7	11.9	115.4
Countywide	-	-	36.1	8.2	-	44.3
Total	61.9	40.9	36.1	8.9	11.9	159.7

5.1.4 The planned expenditure meets the national conditions of minimum CCG contribution to social care (£40.928m) and exceeds the minimum ringfence for CCGs commissioned out of hospital services (£29.222m). The total for 2020/21 does not include any additional funding to support the Hospital Discharge Service policy, which is accounted for outside of BCF reporting, and at any rate would not count towards the minimum social care contributions or minimum ringfence for out of hospital services.

5.1.5 Final estimates of the Essex BCF Plan for 2021/22 cannot be concluded until the final BCF guidance is issued by NHS England. The recommendations for 2021/22 in this report relate to the management arrangements for the part of the BCF expenditure to be funded from CCGs' financial contributions. In addition to this funding, it is also a condition of the Council's iBCF Grant (£45m) and Disabled Facilities Grant (£11.9m) that these too are pooled within the 2021/22 BCF plan, and so the plans for the application of these grants will be incorporated in the final BCF plan.

5.1.6 In the absence of an approved BCF plan for 2021/22, to ensure continuity of funding to NHS-commissioned providers of BCF services after April 2021, the Council requires written confirmation from each CCG partner that they will underwrite all NHS Commissioned spend with the providers and continue to make their contributions to support social care.

5.1.7 The estimated monthly value of the purchase orders for Social care and NHS-commissioned services are shown in the table below. Without the confirmed level of uplift to be applied to 2021/22 contributions at CCG level, the national figure of 5.3% has been applied to the 2020/21 values. It should be noted that the same national uplift was applied in 2020/21 and the final allocation was different for Essex CCGs by only 0.06% percentage points, or £56,000.

Countywide		
Monthly Schedule of Invoice Payments (Subject to amendment once final BCF is agreed and approved)		
	Annual Value £	Monthly Invoice Value (Provisional) £
Social care		
Protection of Social Care	33,441,707	Apr-21 7,224,603
Care Act	4,163,090	May-21 7,224,603
Reablement	4,833,307	Jun-21 7,224,603
Carers Breaks	657,949	Jul-21 7,224,603
Sub - Total	43,096,053	Aug-21 7,224,603
		Sep-21 7,224,603
		Oct-21 7,224,603
		Nov-21 7,224,603
NHS Commissioned Services		Dec-21 7,224,603
Stroke Psychology	200,475	Jan-22 7,224,603
Community Mental Health	109,095	Feb-22 7,224,603
Community Services Head of Dementia	34,848	Mar-22 7,224,603
Community Services Programme & Admin	75,648	
Community Health Services	43,179,120	
Sub -Total	43,599,185	
Total	86,695,239	Total 86,695,239
CCG		
Mid Essex	26,130,213	
North East Essex	26,163,929	
West Essex	8,861,972	
Basildon & Brentwood	19,640,284	
Castle Point & Rochford	5,898,840	
Total	86,695,239	

5.1.8 The £86.7m total in the invoice schedule does not include payments made directly to providers by CCGs, for example those mandated by NHS England to be paid to Essex Partnership University NHS Foundation Trust (EPUT) for community health services. Adjusting for these would add an additional £21.6m, bringing the total estimated CCG minimum contribution to £108.3m in 2021/22. Furthermore, incorporating the iBCF and DFG values makes the BCF worth an estimated £165.2m in 2021/22.

Better Care Fund Summary	2020/21 £m	2021/22 £m
Funding Sources		
Minimum CCG Contribution	102.8	108.3
Additional CCG Contribution	-	-
iBCF	45.0	45.0
DFG	11.9	11.9
Total BCF Pooled Budget	159.7	165.2

5.2 Legal implications

- 5.2.1 The mandate from the Secretary of State to NHS England may include specific requirements relating to the establishment and use of an integration fund. In recent years the Secretary of State has done this by requiring CCGs to establish better care funds.
- 5.2.2 In Essex the BCF is established by means of five bilateral partnership agreements under section 75 of the National Health Service Act 2006 between the Council and each of the five CCGs operating within Essex, together with a multilateral partnership section 75 agreement between all five CCGs and the Council (which contains the iBCF).
- 5.2.3 Any changes to the section 75 agreements must be agreed separately by each partner. The Health and Wellbeing Board's role is to consider reports as requested by the Department of Health and under the section 75 agreements. This is part of the Board's role to promote the integration of health and social care.
- 5.2.4 Following approval of the final BCF Plan for 2021/22, this will be submitted to the Health and Well Being Board for endorsement.
- 5.2.5 The CCGs have confirmed their commitment to the proposed BCF arrangements described in paragraph 3.8 so as to ensure continuity of delivery by way of a formal letters signed by their Chief Finance Officers. The Section 75 agreements will need to varied by virtue of deeds of variation to reflect the Contributions and formalise the uplift applied for 2020/21 in the first instance, and a potential later variation will be required to reflect the Final Allocations in Essex, if different from the Uplifted Contributions.

6. Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc on the grounds of a protected characteristic unlawful

- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3 The equality impact assessment (appendix 1) indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

7. List of appendices

Appendix A – BCF Expenditure Summary 2020/21
Equality Impact Assessment

8. List of Background papers

- 8.1 Letters from the CCGs confirming payment
- 8.2 Current section 75 agreements and BCF plan

Appendix A

BCF Expenditure Plan Summary 2020/21

Description	Expenditure £m	Detail
Live at Home	25.0	Domiciliary care services including personal care, cleaning & house care, practical & social support, minor health related tasks, administration of medication and support during the night.
Reablement	10.7	Support to individuals both in the community and on leaving hospital for a period of up to 6 weeks. Aims to increase or support people to relearn or regain daily living skills.
Care Act	4.0	To support the implementation of the Care Act 2014. Includes Carers Direct Payments and Independent Mental Health Advocacy.
Community Services	61.8	NHS commissioned, out-of-hospital services. Contractual arrangements and scope are at a local level for each CCG.
Other social care schemes	1.4	
Subtotal - Min CCG Contr'n	102.8	
Meeting social care needs	36.1	Contribute to the funding of the growing costs of meeting social care needs arising from rising costs and growing demand for services. Maintain investment in discretionary services that have a benefit to social care and NHS partners.
Care Market Quality Initiatives	0.7	Increase the quality of services and therefore increase system capacity by reducing suspended services and those that service users reject.
Falls prevention	0.6	Reduce the number of falls and improve individual confidence and capability in strength, gait and balance.
Reablement flow	0.6	Dedicated social work capacity to speed up Care Act assessment for people leaving reablement services to secure swifter move to longer term care arrangements.
In Lieu of Reablement (ILOR)	3.8	To secure alternative provision to support eligible individuals when reablement capacity is not available.
Other countywide schemes	2.6	Includes schemes to support seasonal (winter) pressures.
Locality schemes	0.7	
Subtotal - iBCF	45.0	
Disabled Facilities Grant	11.9	Transferred directly from ECC to the twelve District, Borough and City councils. The main focus is the prevention of harm and promotion of independence within the existing home setting.
Subtotal - DFG	11.9	
Total Essex BCF 2020/21	159.7	

Forward Plan Ref No. FP/976/02/21

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

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

Leader of the Council

FP/980/02/21	Allocation of the Contain Outbreak Management Fund to support the Voluntary and Community Sector in their COVID response
FP/981/02/21	Allocation of Contain Outbreak Management Fund – Housing Rough Sleepers
FP/982/02/21	Allocation of Contain Outbreak Management Fund – Substance Misuse Services
FP/984/02/21	Essex Housing Development LLP – appointment of Management Board Member
FP/991/02/21	A120-A133 Link Road and Colchester Rapid Transit: Final agreed proposed routes for the Colchester Rapid Transit System

Exempt from 28-day period and call in

*FP/964/01/21	Allocation of Contain Outbreak Management Fund – additional support to business
*FP/979/02/21	Workforce Capacity Fund for Adult Social Care: COVID 19 Response

Exempt from call in

*FP/988/02/21	Final agreement for the Essex Concessionary Fare Scheme Reimbursement Arrangements for 2021/22
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Deputy Leader & Cabinet Member for Infrastructure

- *FP/514/09/19** New ECC Highways Maintenance and Inspection Strategies
- FP/985/02/21** Proposed Pegasus Crossing – Essex Regiment Way, Broomfield, Chelmsford
- *FP/917/12/20** Outline Business Case for removal of Air Quality Exceedances on East Mayne, Basildon and changes to crossing locations on East Mayne, Basildon
- FP/997/03/21** Proposed Waiting, Loading and Stopping Restrictions on A1016 Waterhouse Lane and Writtle Road, Chelmsford
- FP/005/03/21** Proposed Prohibition of Motor Vehicles on Hollow Lane and Woodhall Hill, Chelmsford

Cabinet Member for Economic Development

Exempt from 28 day period and call in

- *FP/994/02/21** Kickstart Essex

Cabinet Member for Education and Skills

- FP/983/02/21** Appointment and Re-Appointment of School Governors by Essex LA - Schedule 366
- FP/987/02/21** Extension of the 'Getting Around in Essex Bus and Passenger Transport Strategy to 31st March 2022
- FP/990/02/21** Appointment and Re-Appointment of School Governors by Essex LA – Schedule 367
- *FP/879/11/20** Proposed expansion of The Swayne Park School, Rayleigh, to increase its capacity by 1 form of entry from September 2021
- FP/003/03/21** Appointment and Re-Appointment of School Governors by Essex LA - Schedule 368
- *FP/869/11/20** Determination of School Term Dates for Community and Voluntary Controlled School 2022-2023

Cabinet Member for Finance

FP/004/03/21 Draw-down for Additional Flood Prevention Resources

Cabinet Member for Health and Adult Social Care

FP/986/02/21 To introduce a new Shared Lives client charging rate under existing Adult Social Care charging Policy

*** Key Decisions 7**

Decisions taken exempt from 28 day period and call in 3

Decisions exempted from call in 1