

Report to the Cabinet

Report reference: C-063-2010/11

Date of meeting: 7 March 2011



**Epping Forest
District Council**

Report of: Local Development Framework Cabinet Committee.

Subject: Adoption of the West Essex Local Investment Plan.

Responsible Officer: Alan Hall (1992 564004).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

(1) That a recommendation be made to Council that the West Essex Local Investment Plan (LIP) be adopted, subject to an exchange of letters taking place between the Chief Executives of all three local authorities, following formal resolutions by the relevant executive bodies of each local authority, confirming that:

(a) each district council gives a commitment that it will not seek to instigate a boundary change in respect of any areas where new housing is developed close to its boundary, other than through mutual agreement, together with the reasons; and

(b) if a boundary change is instigated by a third party, the affected councils will work together to ensure that any proposed changes are not to the detriment of either council, particularly in relation to the New Homes Bonus and nomination rights to affordable housing;

(2) That a further recommendation be made to Council that it makes a formal resolution itself to give the commitment referred to in Recommendation (1), at the same time as it agrees to adopt the LIP; and

(3) That the Acting Chief Executive be authorised to agree the final version of the LIP, in consultation with the Leader of the Council.

Reasons for Proposed Decision:

At the suggestion of the HCA, and in view of the relationship that is developing between the three local authorities in West Essex, a Joint Local Investment Plan for West Essex has been formulated. The Council is required to submit a Local Investment Plan (LIP) to the Homes and Communities Agency (HCA), if the District is to receive any funding from the HCA in the District. It is the Cabinet Committee's view that the draft LIP should be adopted by the Council, subject to the inclusion of the proposed exchange of letters, and the Acting Chief Executive being authorised to agree the final version.

Other Options for Action:

- Not to adopt the Joint Local Investment Plan;
- Not to request an exchange of letters regarding potential future boundary changes;
- To request other changes to the draft LIP prior to its adoption by the full Council; or
- Not to authorise the Acting Chief Executive to agree the final version of the LIP.

Report:

1. At our meeting on 7 February 2011, we received a report from the Director of Housing on the proposed adoption of the West Essex Local Investment Plan. This report covers our views and recommendations to the Cabinet, based on the Director of Housing's report.

2. We were advised that the Homes and Communities Agency (HCA) requires all local authorities to produce a Local Investment Plan (LIP), agreed by the HCA in a form determined by the HCA, setting out its approach to development in its district over a three year period. The HCA will not provide funding for affordable housing and infrastructure in districts where the local authority has not produced a LIP.

3. The intention for LIPs is to provide a framework for future partnership working with the HCA and to set out the investment required for an area to deliver the agreed vision and economic purpose of the place. LIPs, which originated from the HCA's "Single Conversation", will be used as the basis to set out the funding and resources that the HCA will invest in an area over time, as resources become available.

4. The LIP identifies the needs to be addressed, based on robust evidence from local strategies, including the Housing Strategy, the Strategic Housing Market Assessment and the Local Economic Assessment, and includes outputs that are expected from each partner's interventions.

5. At the suggestion of the HCA, in view of the proposed growth of Harlow - which could potentially involve and affect neighbouring districts to Harlow – the three West Essex local authorities, together with Harlow Renaissance, Essex County Council and others have been working together to produce a **Joint** Local Investment Plan for West Essex. This has involved this Council's Acting Chief Executive, Director of Housing, Director of Planning and Economic Development and staff in their directorates. Such joint working has been encouraged by the HCA nationally, but very few areas have been able to deliver joint LIPs. This approach is also in keeping with the recent Memorandum of Understanding between the West Essex Councils.

6. The latest, advanced, draft of the LIP has been published as a supplementary agenda and, subject to any further minor amendments, now needs to be adopted by the three local authorities involved. Hard copies have been provided for members of the Cabinet, and further hard copies will be available on the evening. If other members require their own hard copy, they can obtain one from the Democratic Services Officer listed above, before the meeting.

7. One of the difficulties has been to set out a vision for West Essex, at a time of uncertainty, when there is currently a hiatus in each local authority's thinking on its own development objectives, following the revocation of the East of England Plan (even though this was subsequently re-instated following a legal challenge) and the need for each local authority to now determine, locally, the amount of growth that it considers appropriate for its district, and in which location(s). This view is being progressed through each council's Local Development Framework (LDF). This Council also carried out a Community Visioning

consultation between November 2010 and January 2011, in order to inform its approach to the Issues and Options stage of the LDF. Therefore, there is currently no clear view from any of the three local authorities on future development in each of the districts, let alone West Essex as a whole.

8. It will be seen that one of the key aims of the LIP is to support the growth of Harlow, as a “sub-regional” centre. However, for the reasons given above, there are no statements or commitments given as to the way such support would be provided by the Epping Forest District, or to the extent of such support.

9. Priorities for investment across West Essex have emerged from the evidence that is set out in the LIP, and these have been prioritised in terms of both strategic importance and timescale deliverability. The prioritisation has been made, taking into account the following criteria:

- Existing prioritisation as agreed by individual councils;
- Deliverability and viability;
- Funding availability; and
- Potential contribution to the overall LIP vision.

10. As part of its quality assurance process, the draft West Essex LIP underwent a peer review by the HCA. Feedback following this process was positive and the LIP has been commended by the HCA for its quality, content and as an example of good partnership working across local authority boundaries. There were very few negative comments, which were all of a minor nature, and have been addressed.

11. It was the view of the Council’s Management Board that the most appropriate member body to consider the draft LIP in detail, in the first instance, was the Local Development Framework Cabinet Committee. However, the document will need to be adopted by the full Council on 29 March 2011, on the recommendation of the Cabinet – hence the reason for our report to the Cabinet. Since the LIP must be formally adopted by all three partners by 31 March 2011, this presents a tight timescale. There are risks to the Council and its partners if any of the partners, including this Council, do not sign up to the LIP – which are set out in the Risk Management Section below.

12. We have considered the document in detail and, since the LIP has been formulated with the full involvement of EFDC officers, we feel that the LIP can now be adopted by the Council. However, officers have drawn our attention to concerns that they have if, through the Local Development Framework, EFDC agrees to any development in Epping Forest on the borders of Harlow - in order to support the growth of Harlow - and there is then a subsequent boundary change involving such areas where development has occurred. If this happens, we would want to ensure that EFDC receives the full benefit of:

(a) **Any New Homes Bonus (NHB) that arises for the whole 6 year period of the NHB** - based on the proposals and figures within the Government’s Consultation Document (which are clearly subject to change), the District Council could receive a New Homes Bonus of around £670,000 over a six-year period, for every 100 homes built within the District. If there was a boundary change during the six-year period, it is possible that EFDC would not receive the New Homes Bonus for the whole six-year period; and

(b) **All the nomination rights to the affordable housing provided as part of any developments** - under current HCA guidance, the local authority in whose district affordable properties are built is entitled to have nomination rights to those properties (i.e. the ability to nominate to the developing housing association those housing applicants who should be accommodated in the affordable housing) – if there was a boundary change, the “new” local

authority would receive the nomination rights for any new housing built after the boundary change, and for all subsequent re-lets.

13. We were reminded that the area known as Church Langley in Harlow was previously known as Brenthall Park, situated in the Metropolitan Green Belt within the Epping Forest District, prior to a boundary change that was resisted by this Council. When the land was subsequently developed, which included the provision of affordable housing, this Council was not able to have any nomination rights to the affordable housing.

14. For these reasons, we are recommending that the adoption of the LIP by EFDC is subject to an exchange of letters taking place between the Chief Executives of all three local authorities (following formal resolutions by the relevant executive bodies of each local authority), confirming that each district council gives a commitment that it will not seek to instigate a boundary change in respect of any areas where new housing is developed close to its boundary, other than through mutual agreement, together with the reasons. Furthermore, we feel that if a boundary change is instigated *by a third party*, the letter should confirm that the affected councils will work together to ensure that any proposed and/or resultant changes are not to the detriment of either council, particularly in relation to the New Homes Bonus and nomination rights to affordable housing.

15. We were advised that, because of their concerns, officers had originally suggested to the other two councils that a statement to this effect should be included within the LIP itself. However, since Harlow DC's members have already adopted the LIP in principle, Harlow DC proposed in response that this issue would be better covered through an exchange of letters. We considered this suggestion and agreed with officers that this approach will probably provide EFDC with a greater safeguard than simply the inclusion of a statement in the LIP. For our Council, we are recommending that the full Council makes such a commitment and resolution itself when it considers and adopts the LIP at its meeting on the 29th March 2011.

16. We did have some comments on the LIP itself, which we asked officers to seek to include within the final version. These were:

(a) The inclusion within the section on Transport and Infrastructure (referring to the fact that the Central Line of the London Underground passes through, and terminates, within the Epping Forest District and that, at peak times, the line operates at full capacity, and there is a real problem with commuter parking around underground stations. There is also insufficient parking at underground stations, resulting in residents of surrounding roads experiencing parking difficulties for themselves. Therefore, any significant development within the Epping Forest District will need to consider the effect on, and may be constrained by, the capacity of the Central Line;

(b) Within the section on the St Johns Road Area, Epping, reference to the fact that the resultant Development Brief for the area could also incorporate some community uses, which will also be explored as part of the consultation exercise; and

(c) Reference should be made to the existence of the West Essex Alliance, and its objectives (to bring together businesses and the public sector across West Essex to promote economic growth and to feed into the Kent, Greater Essex and East Sussex Local Enterprise Partnership).

17. Since there will inevitably be further changes required to the latest draft LIP, we are recommending that the Acting Chief Executive be authorised to agree the final version of the LIP, in consultation with the Leader of the Council.

Resource Implications:

There are no financial commitments given within the LIP.

However, if planning permission for the development of new homes within the District bordering Harlow is given in the future, and there is a subsequent boundary change which takes those properties out of the Epping Forest District prior to, or during, the 6-year period of the Government's proposed New Homes Bonus, this Council could lose a significant amount of New Homes Bonus.

On the basis of the Government's current proposals under consultation, this could amount to around £1,200 per home, per annum, for up to 6 years.

Legal and Governance Implications:

The LIP has no legal status. It is the Management Board's view that, since the LIP is a strategic document, and having regard to the Council's Constitution, it would be appropriate for it to be adopted by the full Council, which is a view we support.

Safer, Cleaner and Greener Implications:

The strategic proposals within the LIP would result in developments that improve the safety, cleanliness and environment of those parts of the district where development takes place.

Consultation Undertaken:

The draft LIP has been produced following consultation between officers of the three West Essex local authorities, Harlow Renaissance, Essex County Council and others.

Background Papers:

Housing Policy File H884.

Impact Assessments:

Risk Management

Apart from the perceived benefits of having an agreed Joint Investment Plan covering the three local authority areas in West Essex, there are real risks to the Council and its partners if any of the partners, including this Council, do not sign up to the LIP by 31 March 2011. There would be insufficient time for this Council, or either of the other two councils, to produce their own LIP. Based on the statement of HCA officials, the HCA would then not provide any funding for affordable housing or infrastructure in any of the three local authority areas.

If agreement cannot be reached with the other two councils on the proposed exchange of letters regarding potential future boundary changes, the Cabinet or full Council may decide not to adopt the LIP, which would result in this outcome.

However, if the LIP is adopted without the proposed exchange of letters giving such a public commitment from all three councils, there may be more likelihood that one or more of the three councils may either seek to instigate a boundary review, or support a boundary change if instigated by others. If this happens, there is a real risk that the Council could lose all of part of any New Homes Bonus that would otherwise be received by the Council, as set out under the section above on Resource Implications.

It is emphasised that the proposed exchange of letters would have no legal status, and cannot require any of the three local authorities to adopt the proposed stance in the future, especially if there is a change of membership or administration. However, it is felt that having such an exchange of letters would be better than not having an exchange, since it would demonstrate, publicly, each council's intent, and will make it more difficult for any of the councils to renege on the commitment given.

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? N/A

What equality implications were identified through the Equality Impact Assessment process?
N/A

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
N/A