

THE ESSEX COUNTY COUNCIL

(A120/A133 LINK ROAD)
(PHASE 1 (SOUTHERN SECTION))
COMPULSORY PURCHASE ORDER 2023

(A120/A133 LINK ROAD)
(PHASE 1 (SOUTHERN SECTION))
(CLASSIFIED ROAD) (SIDE ROADS) ORDER 2023

THE ACQUISITION OF LAND ACT 1981 THE HIGHWAYS ACT 1980
STATEMENT OF CASE OF THE ACQUIRING AUTHORITY

MARCH 2024

1. Introduction

- 1.1. This is the Statement of Case of the Essex County Council (referred to in this Statement as “the acquiring authority”). It is produced to comply with Rule 7 of the Compulsory Purchase (Inquiries Procedure) Rules 2007 and Rule 16 of the Highways (Inquiries Procedure) Rules 1994. It contains particulars of the case which the acquiring authority will put forward at the public inquiry which is to be convened by the Planning Inspectorate on behalf of the Secretary of State into the following orders:
 - The Essex County Council (A120/A133 Link Road) (Phase 1 (Southern Section)) Compulsory Purchase Order (“CPO”); and
 - The Essex County (A120/A133 Link Road) (Phase 1 (Southern Section)) (Classified Road) (Side Roads) Order (“SRO”), which are collectively referred to in this Statement as “the Orders”.
- 1.2. The land and rights to be acquired by compulsory purchase pursuant to the CPO are referred to in this Statement as “the Order Land”.
- 1.3. Reference is also made in this Statement to the non-statutory Statement of Reasons served with the Orders and referred to in this Statement as “the Statement of Reasons”. A copy of the Statement of Reasons is annexed to this Statement of Case.
- 1.4. The purpose of this Statement is to set out the case which the acquiring authority proposes to put forward at the Public local Inquiry and to provide a list of the documents which the acquiring authority intends to refer to or put in evidence.
- 1.5. This Statement and the Statement of Reasons have been prepared in accordance with the guidance set out in:
 - “Guidance on Compulsory purchase process and The Crichel Down Rules” issued in July 2019;
 - Department of Transport Circular 1/97 “Highways Act 1980: Orders Under Section 14 of the Highways Act 1980 and Opposed Orders Under Section 124 of that Act”; and
 - Department of Transport Circular 2/97 “Notes on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Schemes and Car Parks for which the Secretary of State for Transport is the Confirming Authority”.
- 1.6. The Proposed Scheme forms the southern section of the full A120/A133 Link Road. Planning Permission for the full Link Road was granted by the Council on 2nd November 2021 and must be implemented (i.e. construction commenced) by 2nd November 2024 [Doc. Ref. CC/TEN/31/21]. The case for the Proposed Scheme is informed by the case for the full A120/A133 Link Road because the southern section of the

Link Road lays the foundation for the future growth and public benefits that are unlocked by the full Link Road. Where appropriate, the sections of this document explain if the information presented relates to the full Link Road or the Proposed Scheme. The A120/A133 Link Road (Phase 1 (Southern Section)) scheme is hereafter referred to as the “Proposed Scheme” throughout this Statement of Case. Where there is reference to the full A120/A133 Link Road scheme this will be referred to as the “full Link Road”.

2. Statutory Powers

- 2.1. The acquiring authority (Essex County Council) is the local highway authority for the area.
- 2.2. The CPO is made under the Highways Act 1980 Act: sections 239 and 240 (general powers of highway authorities to acquire land for the construction and improvement of highways), section 246 (power to acquire land for mitigating adverse effects of constructing or improving highways) and section 250 (land acquisition powers to extend to creation as well as acquisition of rights).
- 2.3. The SRO is made under sections 14 (powers of highway authorities as respects roads that cross or join classified roads), 125 (further powers to stop up private accesses to premises) and Schedule 1 of the Highways Act 1980.
- 2.4. The making and confirmation of the SRO will enable the acquiring authority to improve, raise, lower, divert or otherwise alter highways; stop up highways; construct new highways; stop up private means of access to premises, required to support the Proposed Scheme.

3. Need for the Proposed Scheme

- 3.1. The Proposed Scheme is located approximately 1km to the west of Elmstead Market, 1km north of Wivenhoe and 1.3km to the east of Colchester. The Planning Application Boundary relates to the full Link Road and as such extends between the existing A120 to the north and A133 to the south to cover the extent of the full Link Road. The majority of the Proposed Scheme and full Link Road location comprises large-scale, irregularly shaped arable fields divided by hedgerows with intermittent hedgerow trees.
- 3.2. Settlement within the farmland is sparse, but there are some scattered isolated dwellings and local businesses in the landscape surrounding the Planning Application Boundary. The location of the Proposed Scheme, in the context of forming part of the full Link Road, is shown in Figure 1 below.

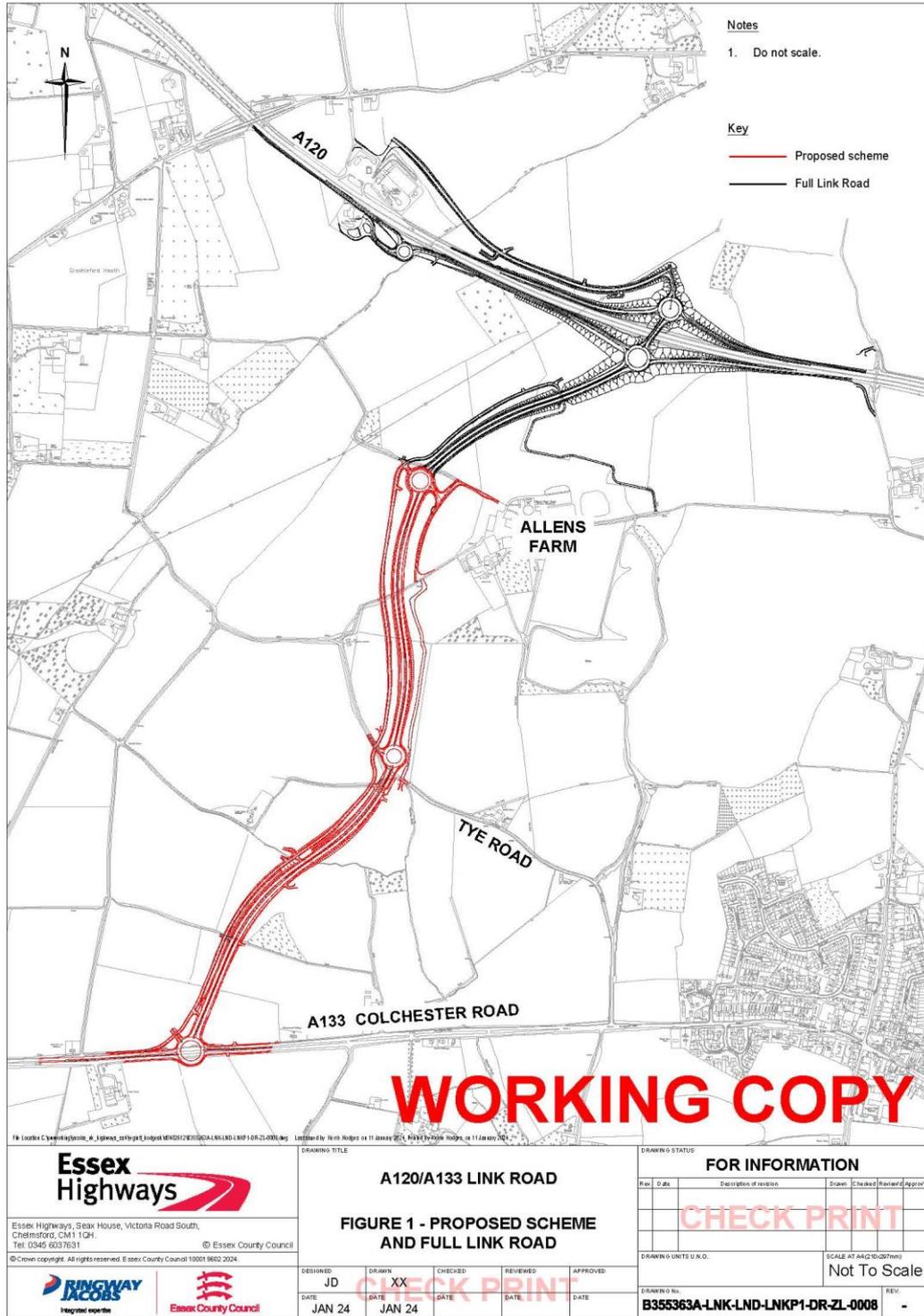


Figure 1

3.3. A review of the planning history of the site revealed a number of extant planning permissions, which have been taken into account in the scheme design. These relate to the planning applications determined prior to 2020 and relate to land at Allens Farm.

Planning Reference	Description of development	Date Determined
Allens Farm, Tye Road		
23/00566/AGRIC	Prior Approval Application under Part 6, Class A/B/E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for proposed erection of irrigation pump house.	Prior Approval not Required: 27/04/2023
23/00567/FUL	Proposed erection of industrial building, servicing yards, car parking and landscaping.	Approved: 02/08/2023
22/01782/FUL	Proposed erection of class B8 storage and distribution unit	Approved: 22/02/2023
20/00281/FUL	Proposed bulk onion store	Approved: 10/07/2020
19/01334/AGRIC	Proposed agricultural grain storage building	Prior Approval not Required: 01/10/2019
19/00544/FUL	Erection of two buildings to be occupied under a B8 storage and distribution use	Approved: 04/07/2019
19/00502/AGRIC	Proposed agricultural storage building	Prior Approval not Required: 18/04/2019
19/00461/AGRIC	Propose multi-purpose agricultural storage building including weighbridge office and welfare facility	Prior Approval not Required 17/04/2019
17/01271/FUL	Erection of a second biogas plant comprising anaerobic digester, cogeneration unit, grid entry unit and digestate store to replace previous approval 15/01679/FUL	Approved: 20/12/2017
Ardleigh South Services		
23/01387/FUL	Proposed construction of HGV lorry park with ancillary welfare facilities and 3 metre high fencing; and 3 bay jet wash for cars.	Pending determination

- 3.4. The full Link Road has a primary function of providing new integrated transport infrastructure for the proposed Garden Community. The proposed Garden Community would comprise between 7,000 to 9,000 (as per Section 1 of the Local Plan 2013-2033) new homes and associated infrastructure and employment land to the east of Colchester into the 2050s. A Housing Infrastructure Fund (HIF) grant for the Proposed Scheme has been secured on the basis that it would provide necessary infrastructure to enable the Garden Community development.
- 3.5. The Proposed Scheme would be pivotal in providing the access necessary to support vehicle movements generated by new housing development at the Garden Community over the Local Plan period and beyond. As well as providing an essential part of the future Garden Community growth strategy, the Proposed Scheme and the full Link Road are key infrastructure in the emerging Development Plan Document (DPD) for the Garden Community. The emerging DPD is based on further evidence and demonstrates a housing capacity of circa 7,500, including 1,900 homes by

2032/33 (which is the horizon for the adopted Local Plan). As such the Proposed Scheme is the first stage in the overall development process of the Garden Community.

- 3.6. There is local policy support for the Proposed Scheme in the Colchester Future Transport Strategy. The scheme contributes to improving connectivity locally, easing congestion within the wider Colchester area and optimising the capacity of both the A133 and A120 to support future growth through the provision of a package of integrated transport measures. Transport modelling has been commissioned which demonstrates that the Proposed Scheme is consistent with sufficient highway network capacity to deliver the housing trajectory within the adopted plan period (1,900 homes by 2032/33).
- 3.7. The full Link Road would enable a proportion of existing and future traffic to access the eastern side of Colchester, including the major employment centre at the University of Essex, by following routes that avoid travelling through the urban areas of Colchester. In addition, the full Link Road would expand the likely users of the proposed Park and Ride site on the southern part of the Garden Community.
- 3.8. The reduction of traffic from the full Link Road on the eastern side Colchester, in turn, supports the extension of walking, cycling and bus priority measures within the city, including infrastructure measures for the proposed rapid transit system ('RTS') service which would serve the proposed eastern Park and Ride facility.
- 3.9. In line with the National Planning Policy Framework (NPPF) to plan for sustainable travel, the Proposed Scheme contributes to the same sustainable aims as the full link road. The Proposed Scheme supports the filtering of traffic onto the A133 east of the Colchester Road junction. This enables priority measures to be introduced to support the introduction of RTS including a dedicated RTS lane into the Garden Community. In addition, cycle lanes are planned to run inside the Garden Community unhindered by general traffic. These measures will contribute to higher than typical levels of sustainable travel on the Garden Community and less traffic impact on the eastern side of Colchester.
- 3.10. Reflecting the above benefits, Policy SP 6 of the Shared Strategic Section 1 Local Plan requires that planning consent and funding approval for the A120/A133 Link Road and the RTS is secured before any planning approval is granted for development forming part of the Garden Community. The Shared Strategic Section 1 Local Plan was adopted by Tendring District Council in January 2021 and adopted by Colchester City Council in February 2021. As such it now forms part of the Development Plan for the area.
- 3.11. Due to the impact of inflation on the cost of the full Link Road, and accommodating changes requested through the public consultation and stakeholder engagement process undertaken by ECC, a decision was taken by the acquiring authority in March 2023 for the full Link Road to be

constructed in two phases rather than in one phase. Homes England and the acquiring authority have signed a Deed of Variation to the Grant Determination Agreement reflecting this change.

- 3.12. The Proposed Scheme facilitates the construction of homes and employment in the Garden Community. At a later date, the northern section would then be constructed to complete the full Link Road. The northern section would facilitate the continued growth of the proposed Garden Community to the quantity of housing and employment set in the Shared Strategic Section 1 Local Plan and emerging DPD. The timing of the second phase would be determined by the needs of the Garden Community, and funding and delivery obligations are to be secured through the determination of future planning applications for the Garden Community and associated planning conditions and Section 106 legal agreements.
- 3.13. The Proposed Scheme would provide the primary means of vehicular access in and out of the future Garden Community, which is most effectively achieved by the Proposed Scheme's 3No. proposed roundabouts. A wider package of sustainable transport interventions, consistent with NPPF and Town and Country Planning Association (TCPA) principles for garden communities, will be delivered alongside the Proposed Scheme. These will embed sustainable travel choices (by active travel or public transport) from the outset of the occupation of the Garden Community by new residents and providing a benefit to existing local residents too. Once the second phase is constructed and the full Link Road opens, a range of transport options, and travel behaviour choices, would be established among residents and visitors.
- 3.14. The objectives of the Proposed Scheme are, therefore, to:
 1. to provide essential highways infrastructure to support delivery of the Garden Community;
 2. contribute to the management of congestion and improve connectivity as part of an integrated package of transport measures; and
 3. facilitate the delivery of the full Link Road at a future date.
- 3.15. As mentioned, the Proposed Scheme is being delivered in conjunction with the RTS (and various active travel interventions) to provide a package of sustainable transport measures to support the Garden Community. This approach is in accordance with the Essex Local Transport Plan (LTP) because it delivers sustainable growth as well as forming a package of measures to provide sustainable access and travel choice to create sustainable communities. As part of a package of sustainable transport measures, the Proposed Scheme also contributes to the delivery of local priorities, namely:
 - Providing the transport improvements needed to accommodate housing and employment growth in a sustainable way;

- Tackling congestion within Colchester (including the provision of Park & Ride facilities); and
 - Improving and promoting cycle networks; and improving the availability of travel choices and awareness of them.
- 3.16. Finally, the Proposed Scheme contributes to the delivery of Everyone’s Essex (Essex County Council’s strategy direction document), including:
- ***Economy – Infrastructure*** - *We will deliver and maintain high quality infrastructure to improve opportunities for people living in Essex as well as supporting a growing economy and the delivery of new homes and communities by investing in the region of £1 billion by the end of this council.*
 - ***Environment - Transport and built environment*** - *We will deliver a step change in sustainable travel across the county, by growing passenger transport and active travel, and will ensure we support the move towards net zero, climate resilient developments, including our new garden communities, by delivering sustainable, healthy neighbourhoods for the future.*

4. Options Considered and Selection of Route

- 4.1. Initially a broad range of options were identified with junction positions on the A133 from 250m east of Park Farm to 350m west of Tye Road, and junction positions on the A120 from Springvalley Lane to north of Elmstead Hall. At this time a ‘Concept Framework’ was available for the Garden Community and it was acknowledged that options closely aligned to the eastern edge of the development, whilst retaining a proposed green buffer to Elmstead Market, would be most likely to meet the scheme objectives but that wider options should also be assessed.
- 4.2. These initial options were assessed and sifted and four were taken forward to detailed assessment and a series of public engagement events. Three of these were located close to the eastern edge of the proposed Garden Community and the other followed it for its southern half but then cut across the northern half to join the A120 at the Bromley Road overbridge. Each of them was given the option of a roundabout either between Park Farm and Blossomwood Cottages or Blossomwood Cottages and Blossomwood Farm. These options are described below.

Option	Option description	Assessment key items
1A	From the A133, across Turnip Lodge Lane, Tye Road and Allens Lane to a junction position on the A120 at Strawberry Grove.	<ul style="list-style-type: none"> • No encroachment into the main operational areas of the Colchester Waste Transfer Station or Ardleigh South Services • Significant environment impact due to the loss of Strawberry Grove • The option can pass under the

	<p>No encroachment into the operational areas of Colchester Waste Transfer Station and Ardleigh South Services thus operations continuing at these premises but existing direct accesses closed with minimal length new access roads constructed.</p>	<p>overhead power lines on pylons at its A120 junction</p> <ul style="list-style-type: none"> • Severance of the protected lane Turnip Lodge Lane • Compliant geometry may be difficult to achieve on the western side of the northern roundabout due to three arms on one side which would also impact operational capacity • Loss of Ardleigh South Services direct A120 access and trade
1C	<p>From the A133, across Turnip Lodge Lane, Tye Road and Allens Lane to a junction position on the A120 east of the overhead power lines on pylons. A small direct impact on Strawberry Grove but long new access roads to Colchester Waste Transfer Station and Ardleigh South Services.</p>	<ul style="list-style-type: none"> • No/minimal encroachment into Colchester Waste Transfer Station or Ardleigh South Services • Small encroachment into Strawberry Grove, but more importantly severance of it from the wider landscape. • Closer proximity to Allens Farm Farmhouse listed building • Close to the overhead power lines on pylons at its A120 junction resulting in buildability issues • Severance of the protected lane Turnip Lodge Lane • Loss of Ardleigh South Services direct A120 access and trade
1D	<p>From the A133, across Turnip Lodge Lane and Tye Road to a junction position on the A120 just east of the Colchester Waste Transfer Station and Ardleigh South Services. Closure of the filling station required, and a need to modify the vehicular routing within the Waste Transfer Station site.</p>	<ul style="list-style-type: none"> • Requires closure of Ardleigh South Services, and a need to modify the vehicular routing within the Waste Transfer Station • Some impact on Strawberry Grove • The option's A120 slip roads are at the level of the existing A120 at the point they pass under the overhead power lines on pylons • The junction merge/diverge requirements do conflict with Bromley Road overbridge so refinement of the option design would be needed • Severance of the protected lane Turnip Lodge Lane
3	<p>From the A133, across Turnip Lodge Lane and Tye Road before heading northwest to a</p>	<ul style="list-style-type: none"> • Residents of Crockleford Heath expressed severe concern about the impacts of this option on this community • Likelihood of significantly altered

	<p>junction position on the A120 which would replace the existing Bromley Road overbridge. This would directly link with Bromley Road. Ardleigh South Services would be accessed from the Link Road and the Waste Transfer Station accessed off Bromley Road.</p>	<p>traffic patterns and usage of Bromley Road</p> <ul style="list-style-type: none"> • Severance of the northern part of the Garden Community • New grade-separated junction bridge would replace existing so no additional structures to maintain. • Loss of Ardleigh South Services direct A120 access and trade • Severance of the protected lane Turnip Lodge Lane
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- 4.3. A review of the detailed assessment of each option identified Option 1C as the most viable at the north end and Option 1A for the south. The key reasons for Option 1C were to retain as much of Strawberry Grove as possible; continue Ardleigh South Services as an operational business and to minimise the direct impact on Crockleford Heath. At the A133 the western roundabout position was selected, primarily because the eastern would have adversely impacted Blossomwood Farm retirement home; because of the slightly restricted space between Blossomwood Farm and Blossomwood Cottages and concern around the increased use of Elmstead Road.
- 4.4. These parts of Options 1C and 1A were combined and called Option 1C variant because the most significant component is the A120 junction, and the option was reassessed to the same criteria as the four sifted options. This assessment and a refinement to best address the remaining significant impacts and constraints was undertaken. The more notable outcomes of this were that the route was aligned through the junction of Tye Road and Turnip Lodge Lane as far east as it could practicably go to avoid severing Turnip Lodge Lane, a 'protected lane', and to most effectively retain its existing character. A 'protected lane' is a local designation, relating to cultural heritage assets. Turnip Lodge Lane is considered of medium value due to its regional importance and is designated as a protected lane by Tendring District Council: its historic fabric is largely intact and it has a 'group' association with other heritage assets of broadly the same date, but it also has archaeological potential and associations, aesthetic value, important biodiversity value.
- 4.5. Further amendments incorporated into the Option 1C variant saw the Ardleigh South Services' access road running to the south of Strawberry Grove combined with the carriageway taking traffic towards the A120 westbound and located immediately alongside the A120 westbound carriageway so that only the northern tip of the wood was directly impacted. Beyond this an alignment of the road was designed in line with current design standards, as defined in the Design Manual for Roads and Bridges (DMRB) CD 109 Highway Link Design, to allow road users to travel safely at

the speed limit proposed for the road.

- 4.6. The full Link Road was developed with the intention that it would be delivered as a single scheme with funds secured from the Homes England Housing Infrastructure Fund (HIF) to do so. The purpose of the HIF is to unlock sites in the areas of greatest housing demand and help to deliver up to 100,000 new homes in England. However, during the intervening period world events such as the global pandemic and the war in Ukraine have seen construction costs increase to an extent that makes the intended delivery of the full Link Road unaffordable at this point in time. When this became apparent a review exercise (including the option to withdraw the scheme) was undertaken which considered what could be achieved within budgetary constraints and which still aligned with HIF rules.
- 4.7. The findings of this review informed the decision to continue to progress the scheme on a phased basis. The Proposed Scheme was identified as the best means of enabling the advancement of the Garden Community in order to give effect to Local Plan objectives, subject to relevant planning permissions being granted for residential and supporting development for development. It is anticipated that the development unlocked by the Proposed Scheme will then generate developer contributions to assist in funding the remainder of the Link Road and the junction with the A120 and deliver the broader network benefits. The Proposed Scheme was considered appropriate because the acquiring authority entered at Memorandum of Understanding (MoU) with the developers to secure their contribution to the delivery of the full Link Road. Developer contributions will be negotiated as part of the outline planning application for the Garden Community, with contributions expected to accrue as the Garden Community is developed. A schedule of contributions will be established to ensure timely delivery of the full Link Road. The Local Planning Authorities of Tendring and Colchester are working closely with the master developer to ensure that agreements will be in place to achieve this.
- 4.8. In light of influences beyond the acquiring authority's control, it is considered to be an appropriate strategy that would realise the core aim of the HIF to accelerate housing delivery, while providing a mechanism (via developer contributions) to support the delivery of the full Link Road in the future as a means of enabling the full development of the Garden Community in the longer term and in accordance with the sustainability objectives of the Local Plan.
- 4.9. The Proposed Scheme extends from the A133 to the Allens Farm roundabout, which will form the new access to Allens Farm, and the most northerly of the originally proposed access points into the Garden Community. The Proposed Scheme comprises two sections of road, with a roundabout between the two sections (at Tye Road), and roundabouts at each end (the A133 and Allens Farm). The Proposed Scheme therefore provides the three major vehicular access points planned under DPD policy for the Garden Community. The section of road north of Allens Farm roundabout becomes elevated as part of the A120 grade separated junction and is to be delivered as Phase 2.

5. Description of the Proposed Route

- 5.1. In line with the proposed Orders submitted for confirmation, this section will solely describe the Proposed Scheme.
- 5.2. The proposed roundabout between the Link Road and the A133 is centred at a point 292m east of the centre of the A133 junction with Carpenters Lane.
- 5.3. Leaving the A133 the proposed road runs in a northerly, then northeasterly direction returning to north as it crosses through the existing Tye Road/Turnip Lodge Lane junction into a new roundabout – Tye Road Roundabout. Tye Road is connected via an arm on the western side of this roundabout, which it is anticipated will provide a means of access into the Garden Community. Tye Road to the southeast is stopped up to vehicular traffic prior to the roundabout. Turnip Lodge Lane (a protected lane) is also to be stopped up to vehicular traffic southwest of the new roundabout. The distance between the A133 roundabout and the Tye Road roundabout is 925m.
- 5.4. The Proposed Scheme continues broadly north for approximately 697m via a very flat ‘s’ shape alignment until it reaches the next roundabout, Allens Farm roundabout. This roundabout is the point at which the Proposed Scheme terminates. The roundabout has an arm to the east which will serve Allens Farm and the anaerobic digester and an arm to the west which will allow access for agricultural vehicles and those accessing the restricted byway. This latter arm is to be developed in the future to access the Garden Community.
- 5.5. Allens Lane is severed by this latter section of the road. The eastern side will be connected to the new private means of access to Allens Farm from the Allens Farm roundabout, and the west side access will be available for farming operations along with pedestrians, cyclists and horse riders.

6. The Planning Position

- 6.1. Planning permission for the full Link Road (of which the Proposed Scheme forms part) was granted by the acquiring authority in its capacity as local planning authority under the reference CC/TEN/31/21 on 2nd November 2021 and that the planning officer’s report concluded that the planning balance was significantly weighted in favour of approval.
- 6.2. The Proposed Scheme is in accordance with the Shared Strategic Section 1 Local Plan which was adopted by Tendring District Council in January 2021 and adopted by Colchester City Council in February 2021. Policy SP6 states that:

Before any planning approval is granted for development forming part of the Tendring / Colchester Borders Garden Community, the following strategic transport infrastructure must have secured planning consent and funding approval:

a) A120-A133 link road

b) [rapid transit system]

- 6.3. As described previously, the Proposed Scheme forms the first phase of the A120-A133 Link Road. Therefore, the Proposed Scheme is a requirement of the statutory development plan for the area.
- 6.4. The Shared Strategic Section 1 Local Plan requires that a Development Plan Document (DPD) is prepared to provide further policy requirements and guidance to support the planning of the Garden Community. The Submission Version of the DPD was submitted to the Secretary of State in September 2023 and examination hearing session are expected to take place in Spring 2024. The DPD builds upon the Section 1 requirements and includes further information on the requirements of the Link Road in respect of its connectivity and integration with the Garden Community.
- 6.5. The Proposed Scheme accords with national planning policy set out in the National Planning Policy Framework 2018, updated 2019.
- 6.6. The planning application process took account of all the relevant environmental considerations for the scheme.
- 6.7. The planning permission contains pre-commencement conditions relating to the following matters:
- Condition 1 – Date of Commencement
 - Condition 2 – To be carried out in accordance with approved drawings and subsequently approved non-material amendments.
 - Condition 3 – Project / construction schedule
 - Condition 4 – Construction Environmental Management Plan (CEMP)
 - Condition 5 – Borrow Pits
 - Condition 6 – Dust Management Scheme
 - Condition 7 – Phase 2 ground investigation report
 - Condition 8 – Written Scheme of archaeological and geoarchaeological investigation.
 - Condition 9 – Archaeological mitigation strategy
 - Condition 10 – Archaeological post investigation assessment
 - Condition 11 – Tree Survey, aboricultural impact assessment and aboricultural method statement
 - Condition 12 – Landscape scheme

- Condition 13 – Landscape and Ecological Mitigation and Management Plan
- Condition 14 – Ecological Design Strategy
- Condition 15 – Farmland Bird Mitigation Strategy
- Condition 16 – Biodiversity Monitoring Strategy
- Condition 17 – Review of ecological mitigation measures
- Condition 18 – Lighting Design / Plan
- Condition 19 – Surface water drainage scheme
- Condition 20 – Surface Water Drainage System Maintenance Plan
- Condition 21 – Low Noise Road Surface
- Condition 22 – Public Rights of Way
- Condition 23 – Footway/cycleway and Walkers, Cyclists and Horse riders.

6.8. To the extent required for the advance works the following conditions have been partially discharged:

- Condition 3 – Project / construction schedule
- Condition 4 – Construction Environmental Management Plan (CEMP)
- Condition 11 – Tree Survey, arboricultural impact assessment and arboricultural method statement
- Condition 12 – Landscape scheme
- Condition 13 – Landscape and Ecological Mitigation and Management Plan
- Condition 14 – Ecological Design Strategy
- Condition 16 – Biodiversity Monitoring Strategy

6.9. The acquiring authority can meet the pre- commencement of development conditions attached to the planning permission and that accordingly there are no planning impediments to the scheme proceeding if the Orders are confirmed.

6.10. The approved scheme delivery in a phased approach complies with planning permission. The development of the full Link Road in two phases is not considered to have any implications for the planning

permission granted. Indeed, Condition 3 attached to the planning permission specifically allows for the staged construction of the Link Road and acknowledges the need for partial and phased discharge of associated conditions. In other words, specific conditions may be partially discharged in relation to a particular stage of construction in accordance with the construction schedule approved by the County Planning Authority under Condition 3. There is no time constraint on the discharge of outstanding conditions once the development has commenced and the planning permission has been implemented. This will apply equally to the Proposed Scheme and the subsequent construction of the remainder of the full Link Road.

7. Side Roads Order

7.1. To deliver the Proposed Scheme the SRO is required to enable the acquiring authority to:

- Improve sections of Restricted Byway (162_21) - to provide access to it from the new unclassified road parallel to the Link Road listed below and allow the connection from the classified road at the Allens Farm Roundabout for permitted restricted byway users.
- Improve sections of Allens Lane – to provide the necessary agricultural vehicle, pedestrian, cyclist, and horse rider connection on the western side of the Link Road between the stopped up Allens Lane and the new unclassified road listed below parallel to the Link Road, and to connect the new private means of access for Allens Farm on the eastern side.
- Improve sections of Tye Road – making provision to connect Tye Road (northwest) to the new Link Road/Tye Road Roundabout and a turning head to the east for the stopped up section.
- Stop up of part of Footpath (PROW 162_2) – as there is no onward route for the footpath via Allens Lane due the latter being stopped up at the Link Road, the public right of way leads to a dead-end. The retained provision will comprise the Restricted Byway (162_21) to the west and the Footpath (162_2) to the east towards Elmstead Parish Church, and the connection to Allens Lane (west) via the new length of unclassified road listed below.
- Stopping up of part of Allens Lane – the Link Road severs Allens Lane which leads to Allens Farm and terminates there. All side road junctions on the Link Road are to be roundabouts, and Allens Lane is not a proposed roundabout location. The Allens Farm roundabout is approximately 300m to the north. Allens Farm to the east of the Link Road is to be given a new access off this aforementioned roundabout, and onward journeys from Allens Lane west of the Link Road can be made via the new unclassified road listed below or Tye Road.

- Stopping up of part of Restricted Byway (162_21) - as there is no onward route for the restricted byway via Allens Lane due the latter being stopped up at the Link Road, the public right of way leads to a dead-end. The retained provision will comprise the Restricted Byway (162_21) to the west and the Footpath (162_2) to the east towards Elmstead Parish Church, and the connection to Allens Lane (west) via the new length of unclassified road listed below.
- Stopping up of part of Tye Road – the Link Road severs Tye Road. A roundabout is proposed linking the classified road to Tye Road in a north westerly direction. It is not proposed to provide a link to the new classified road from Tye Road from a south easterly direction as this will remove the potential for rat running to/from Elmstead Market.
- Stopping up of part of Turnip Lodge Lane – the Link Road severs Turnip Lodge Lane. It is not proposed to link Turnip Lodge Lane to the new classified road, instead creating a new cycle track over the stopped up length to facilitate use by pedestrians and cyclists.
- Creation of a new length of unclassified road – the Link Road severs Restricted Byway (162_21) and Allens Lane, a new unclassified road is proposed to link the two on the western side of the classified road.
- Creation of a new length of cycle track at Turnip Lodge Lane – new cycle track provision to facilitate use by pedestrians and cyclists over the stopped up length.
- Creation of new means of access – the Link Road severs land parcels that necessitate 11 new means of access to maintain connectivity to the following properties Allens Farm and Blossomwood Cottages and field accesses serving enclosure numbers 4700, 6100, 3179, 7952, 3859, 6840, 6200 and 3337.

7.2. The new means of access which are to be provided as part of the scheme are considered to be as suitable as the existing access which it is intended to replace. Although implementing the SRO will result in changes to existing public rights of way in the locality, changes have been designed to maintain the connection of the original routes and provide a safe diversion and crossing to re-join the original routes where necessary. Evidence will be presented to show that overall, the diverted routes along with the new provision, will be as suitable as the existing situation.

8. Need for Compulsory Purchase

8.1. The need for compulsory purchase, and the existence of a compelling case in the public interest, will be demonstrated in evidence. In particular, it will be shown why each plot included within the CPO Land is required either for the construction of the Proposed Scheme.

8.2. Compulsory acquisition powers are sought in order to be able to obtain access to all the land required to allow the Proposed Scheme to be

constructed between 2024 and 2026 and opened during 2026 to enable the planned delivery of local housing growth. These powers would guarantee that all the land required for the Proposed Scheme can be acquired in a realistic timescale and that no individual landowner can hold up the Proposed Scheme through a refusal to sell their interest. It would also ensure that no adverse interests in land can prevent the Proposed Scheme going ahead. It is extremely unlikely that it would be possible to assemble all the necessary land interests in a reasonable timescale without the use of such powers, and their use also would prevent the uncertainty for landowners and tenants and for residents in the area, of land being acquired with no guarantee of the Proposed Scheme being implemented.

- 8.3. The land required for the Proposed Scheme effectively divides into two parcels of ownership, that owned by Mr. Charles Gooch and Mr. David Hunter respectively. The land required for the scheme forms part of the proposed Tendring Colchester Borders Garden Community site and is subject to Option Agreements.
- 8.4. Property consultants have been appointed by the acquiring authority to enter into negotiations with landowners to seek to acquire land in advance of the confirmation of the Orders. The consultants have been in contact with the landowners affected by the project, as well as other parties who are impacted by the Proposed Scheme though without land being affected.
- 8.5. The landowners have appointed land agents to represent their interests, and undertakings in respect of fees incurred in entering into discussions for the early acquisition of land for the Proposed Scheme have been provided, to ensure that landowners' interests are fairly and professionally represented.
- 8.6. Detailed Heads of Terms have been proposed by the acquiring authority but, at the date of this Statement, a final contractual agreement has not been reached.
- 8.7. The acquiring authority is committed to reaching agreement to acquire land in advance of the exercise of statutory powers where possible, and to making early advance payments of compensation to support landowners in planning for any changes in business operations as a result of the Proposed Scheme.
- 8.8. Where land is included in the Orders for the carrying out of construction works, but not required for permanent works, landowners will be offered the opportunity to grant temporary licences for the acquiring authority's occupation of the land, so that the land can be returned to landowners once construction is complete, and the land taken for the Proposed Scheme kept to a minimum.
- 8.9. All property owners directly affected by the Proposed Scheme will be entitled to claim compensation and the acquiring authority is committed to paying compensation in accordance with the Compensation Code, which

provides for a consistent approach to the assessment of fair compensation (as may be varied from time to time by law). In addition to compensation being paid for the value of the land taken, permanently or temporarily, compensation would also be payable in respect of any loss in a landowner's retained property caused by it being severed from the land acquired or by the Proposed Scheme itself, and in respect of any disturbance losses that result from the construction of the Proposed Scheme. The acquiring authority is hopeful that the total of compensation to be paid will be reached by agreement between the respective parties, but in the event that agreement cannot be reached then fair compensation can be independently determined by the Upper Tribunal (Lands Chamber).

- 8.10. A number of property owners, particularly of residential properties, may be affected by the use of the new road once it is opened. The acquiring authority has included a number of measures within its Scheme to mitigate against the impact of the road in use, but any property owner, particular of residential property, who feels that the value of their property has been affected will be able to submit a claim for compensation under Part I of the Land Compensation Act 1973, and the acquiring authority is committed to considering those claims in accordance with the provisions of statute and case law.
- 8.11. The objectives of the Proposed Scheme (as set out in paragraph 3.13 above) as the means of allowing the development of the Garden Community to proceed and to contribute to the management of congestion and improve connectivity as part of an integrated package of transport measure in Colchester are considered to constitute compelling reasons in the public interest so as to justify the use of compulsory purchase powers in the event that agreement with affected land owners cannot be reached. The acquiring authority will show that the Order Land is the minimum amount of land necessary to achieve those objectives and that the distance limits referred to in section 249 and schedule 18 of the Highways Act 1980 have not been exceeded. There is accordingly a compelling case in the public interest for the Orders to be confirmed.

9. Human Rights Assessment

- 9.1. The acquiring authority has considered the provisions of the Human Rights Act 1998 in deciding whether to make the Orders and use of compulsory purchase powers will not constitute an unlawful interference either with property rights protected under Article 1 of the First Protocol of the European Convention on Human Rights, or the respect for private and family life and the home protected under Article 8 of the Convention.
- 9.2. The Orders have been made in accordance with the provisions of national legislation, which provides the public opportunity through the determination of planning applications process of the acquiring authority in its capacity as local planning authority (which is also the acquiring authority under the CPO) to make representations on the planning application which support the development.

- 9.3. In terms of public consultations, local planning policy has included provision of the Link Road to support development of Tendring Colchester Borders Garden Community and has been subject to public consultation. The Shared Strategic Section 1 Local Plan was subject to consultation at ‘Issues & Options’ stage (non-statutory), at draft plan stage (Reg 18 – statutory) and submission draft stage (Reg 19 – statutory) as well as additional consultation on the modifications (some of which related to the Link Road) proposed by the Inspector after his examination of the plan. The Development Plan Document for the Garden Community has been subject to statutory public consultations at Reg 18 and Reg 19 stages and is now subject to an Examination process with hearing sessions likely to take place in Spring 2024.
- 9.4. The planning application for the Link Road itself was subject to two rounds of additional (non-statutory) consultation including one that proposed several options for the location and design of the Link Road. After that consultation a preferred route consultation was carried out on the favoured option. Following those consultations, the planning application was submitted and subject to the usual public consultation period as part of its determination.
- 9.5. In addition to the planning processes related to the Proposed Scheme, those affected by the Orders have had the opportunity to make objections and representations in respect of the Orders and are able to appear at a public inquiry and, if the Orders are confirmed and the scheme constructed, they will be entitled to compensation as provided for under national law. Compensation is also available under national law in respect the adverse effect on the value of properties arising from the use of the scheme, once opened to traffic, including the provision of noise insulation to qualifying properties.
- 9.6. National legislation provides for independent and impartial judicial oversight of the decision-making in respect of the Orders through the statutory challenge and judicial review procedures.

10. Protected Habitats and Species

- 10.1. Measures required to mitigate the adverse effects of the highway on its surroundings are located within the land being acquired for the implementation of the Proposed Scheme. The CPO does not include any additional areas of land required for title mitigation to mitigate the adverse effects of the highway on its surroundings above those already included within the land being acquired.
- 10.2. The acquiring authority requires the land within the CPO to ensure that the effects of the works on European protected species are minimised and to ensure that consents required for the Proposed Scheme to proceed can be obtained from the relevant national authority under The Conservation of Habitats and Species Regulations 2010/490 and the Wildlife and Countryside Act 1981 (as amended).

- 10.3. The acquiring authority will demonstrate in evidence that in designing the scheme it has had regard to its duty under the Natural Environment and Rural Communities Act 2006, which places a duty on public bodies and statutory undertakers to ensure due regard to the conservation of biodiversity.

11. Effects on Land Use and Agriculture

- 11.1. In relation to the land comprised in the planning permission boundary for the full Link Road, the area within the Proposed Scheme would be classified as Agricultural Land Classification Grade 1 under the Natural England Pre-1988 Provisional Agricultural Land Classification Survey.
- 11.2. The agricultural land through which the Proposed Scheme passes also forms part of the Garden Community site, adjacent to the Proposed Scheme. It is therefore envisaged by such proposals that significant areas of agricultural land will be lost from active agricultural production to enable the Garden Community.
- 11.3. The Environmental Statement submitted with the planning application for the full Link Road reported the significance of the impact on both Allens Farm and land north and south of the A133, Elmstead. The adverse impacts of the Link Road have been considered by the local planning authority as part of the planning process and are deemed to be outweighed by the overall benefits of the Proposed Scheme.

12. Special Categories of Land

- 12.1. The Order Land does not contain land that is special category land within the meaning of the Acquisition of Land Act 1981 (open space, common land, allotments or field gardens), land held inalienably by the National Trust, consecrated ground, land in a general improvement area or land in a housing action area, nor is any ecclesiastical property affected, listed building or building of local architectural interest affected.

13. Scheme Funding and Viability

- 13.1. Funding is in place for the full development and construction of the Proposed Scheme. The acquiring authority made a successful bid to Homes England through HIF and received £99.9 million. Evidence will be given to demonstrate that the Proposed Scheme costs have been agreed with Homes England in the course of the HIF grant management and are considered realistic, by the independent governance process.
- 13.2. Since 2022, successive cost estimates for construction of the Link Road have significantly exceeded the HIF funding envelope, with the rise being primarily due to the unprecedented impact on construction prices as a result of world events such as Covid and the war in Ukraine. As a result, Homes England have agreed that the acquiring authority can use approved HIF funding for the Proposed Scheme (alongside the RTS), rather than mandate delivery of the full Link

Road only, which would not achieve the objectives set out by the HIF funding. The Grant Determination Agreement has been subject to a Deed of Variation signed in November 2023, that defines the infrastructure outputs as the Proposed Scheme and the RTS. Full funding for the Proposed Scheme will be provided by Homes England, payable to the acquiring authority in arrears following successful payment claims under the HIF Grant Determination Agreement.

- 13.3. A Financial Viability Appraisal (FVA) for the Garden Community has been prepared by the local planning authorities (Tendring District and Colchester City) in partnership with the acquiring authority, in support of the Tendring Colchester Borders Garden Community Development Plan Document. The DPD has been submitted to Secretary of State following several rounds of public consultation, and the FVA forms part of the evidence base. The FVA takes account of the grant-funded phase of the Link Road (the Proposed Scheme) and the costs of the further phase of the Link Road being met by developer contributions. The proposed Garden Community developers (Latimer) have entered a Memorandum of Understanding (MoU) with the councils (the LPAs and the acquiring authority) describing their commitment in this way, and the MoU also forms part of the published evidence base.
- 13.4. The delivery of the Proposed Scheme is consistent with the adopted Local Plan policy for development of the Garden Community. Policy SP6 states that approval for the Garden Community shall require planning consent and funding approval for the Link Road and the RTS. While HIF grant funding will enable delivery of the Proposed Scheme, the remaining phase of the Link Road will be secured through legally binding conditions requiring developer contributions, as described above.
- 13.5. To demonstrate and quantify the public benefit of the scheme, evidence will be given as to how the Proposed Scheme performs well using the economic appraisal tools stipulated by Central Government in evaluating HIF projects.
- 13.6. To ensure the Proposed Scheme is delivered within the HIF budget, multiple public sector frameworks and procurement routes were assessed to ensure a successful competitive tender. Three bidders submitted a tender via a two-stage process and the acquiring authority has appointed a contractor to undertake the detailed design (first stage of the tender).

14. Related Works, Orders and Procedures

- 14.1. Orders under the Traffic Regulation Act 1984 are required to achieve the following to ensure the Proposed Scheme operates safely.
 - A clearway and 50mph speed limit on the Phase 1 Link Road;

- Permanent reduction of the existing speed limit on the A133 on the approach to the new Phase 1 Link Road roundabout in both directions to 50mph;
- Prohibit motor vehicles except farm vehicles on the west 'arm' of the Allens Farm Roundabout;
- Prohibit traffic except for access on Turnip Lodge Lane from the Carpenters Lane junction to Turnip Lodge Cottages;
- Prohibit right turns in two locations on the A133 (gap closures in central reserve x2);
- Prohibit U-turns through the central reserve gap on the A133 west of Carpenters Lane for HGVs;
- Prohibit traffic southbound on Elmstead Road; and
- Prohibit motor vehicles except agricultural vehicles using the proposed new highway identified as A on the Side Roads Order

14.2. In addition, Environment Agency and Lead Local Flood Authority discharge consents (permanent and temporary) will be required to ensure the proposed drainage system operates compliantly.

15. Objections Received and Responses

- 15.1. A total of twelve objections have been received to the CPO, all of which remain outstanding. Two are considered to be statutory objectors within the meaning of the Highways (Inquiries Procedure) Rules 1994 and both objections state to be to the SRO and the CPO.
- 15.2. Ten non-statutory objections or representations were received in relation to the Orders.
- 15.3. The objections are summarised below, together with the acquiring authority's responses, which will be amplified in evidence in respect of any objections that have not been withdrawn as at the date of the public inquiry. Points which were made by/also made by statutory objections are marked *.
- 15.4. Abbreviations used in sections 16-44:

CPO – Compulsory Purchase Order

SRO – Side Roads Order

The Council - Essex County Council

HIF - Homes England Housing Infrastructure Fund.

RTS - Rapid Transit System scheme

the Proposed Scheme - The Phase 1 Southern Section of the Link Road

The full Link Rad – Phase 1 and Phase 2 of the Link Road

TCBGC - Tendring Colchester Borders Garden Community

DMRB - The Design Manual for Road and Bridges

DPD - Development Plan Document
EIA - Environmental Impact Assessment
CEMP - Construction Environmental Management Plan

16. Phasing of remaining section of link road with the Colchester Tendring Garden community site development.

16.1 Reports relating to the traffic modelling undertaken to inform the development of the Link Road design and its subsequent planning approval can be accessed via the Essex County Council Planning Portal using the following link:
<https://planning.essex.gov.uk/Planning/Display/CC/TEN/31/21>.

To summarise, the Traffic Modelling Report confirms that the Link Road provides an alternative route to reach destinations in east Colchester, including the University of Essex, which is a main centre of employment and growth. Instead of routing through Colchester, drivers can remain on the strategic routes of the A12, A120 and A133 surrounding Colchester. While traffic increases on the strategic routes, a reduction in traffic is seen in Colchester town. This supports the case that the full Link Road supports the practicability of being able to build out TCBGC to 7000-9000 homes, which is the scale defined in the adopted Section 1 Local Plan.

The DPD does not replace the need for a Transport Assessment to accompany any planning application for the TCBGC development. National planning policy requires that every planning application for new development should demonstrate how it will adequately mitigate its impact on the surrounding transport network. Therefore, the first planning application for any development at TCBGC will have to include appropriate and robust evidence to provide confidence that it is not having a severe impact on the network before any new housing is permitted and any planning permission will be based upon, and require, the timely delivery of necessary infrastructure to meet the needs of the development in order to maintain its sustainability. This will include the requirement to carry out sensitivity tests to assess situations in which the modal share targets are or are not fully met. However, these tests would not impact on the choice of a suitable policy framework and the identification of essential major infrastructure as a means of defining a strategy for the delivery of strategic policy aims within which these assessments can take place and, of which the Proposed Scheme forms a vital component.

With respect to the concerns raised on the adequacy of the transport model, National Highways' technical advisor Aecom assessed the Colchester Transport Model and concluded that the Colchester Transport Model is informed by reliable data sources and has been developed in line with current best practice and in line with the principles set out in Transport Analysis Guidance (TAG). It also considered that the results of the highways model validation demonstrated that the model generally performs well against the observed data in terms of meeting TAG criteria for the screen lines and journey time comparisons and that a more detailed examination of the validation of links within the vicinity of TCBGC demonstrates a close match between modelled and observed link flows.

17. How the proposed phasing of the link road construction links in with the Colchester Tendring Garden Community site development and relieving local traffic

congestion. Delivery of phase 2 is uncertain. Added complexity of phase 2 construction adds to uncertainty.

17.1 The A120/A133 Link Road (the full Link Road) was developed with the intention of delivery as a single scheme and grant funding secured to do so from the HIF. The purpose of the HIF is to unlock sites in the areas of greatest housing demand and help to deliver up to 100,000 new homes in England. However, during the intervening period world events such as the pandemic and war have occurred that have seen construction costs increase to an extent that makes the intended delivery of the whole Link Road as a single phase unaffordable. When this became apparent, a review exercise, including the option to discontinue the scheme, was undertaken that considered what could be achieved within budgetary constraints and the terms of the HIF grant funding.

The HIF funding agreement allocated £99.9m of Grant Funding to Council to deliver the A120-A133 Link Road and RTS scheme. Homes England approved the change request to phase the delivery in February 2023 with the following conditions having to be met:

- The funding remains within £99.9m
- An allocation of £4.803m of this funding is utilised for contingency
- An allocation of £2.923m of this funding is utilised for inflation

The Council have appointed a Contractor to undertake the detailed design of Phase 1 of the Link Road whereby the construction costs will be reviewed throughout this process. At the end of the detailed design stage the Council can continue into the construction stage with the contractor or undertake additional procurement to deliver under a different contractor.

The development of the full Link Road in two phases is in conformity with the planning permission granted. Prior to commencement of development, Condition 3 of the planning permission requires the submission to and approval by the County Planning Authority of a construction schedule including details on the proposed phasing and timetabling of development. This condition specifically allows for staged construction of the Link Road through partial and phased discharge of details pursuant to other conditions. In other words, other specific conditions may be partially discharged in relation to a particular stage of construction in accordance with the approved construction schedule. There is no time constraint on the discharge of outstanding conditions once the development has commenced (i.e. once the planning permission has been implemented).

The findings of the review informed the decision to continue to progress the scheme on a phased basis. The Phase 1 Southern Section was identified as the first phase (the Proposed Scheme) as it will enable the most advanced aspects of the Garden Community to progress, subject to confirmation of development phasing to be agreed through the planning application and subsequent planning permission for the Garden Community. This development will then act as the catalyst for generation of the funds necessary to complete the remaining section of Link Road and deliver the broader road network benefits. The Council is working closely with the developers to

ensure that agreements will be in place to achieve these funding commitments and utilise developer delivered roads to provide road network benefits prior to completion of the Link Road.

It is acknowledged that this approach to delivery of the Link Road is not as originally intended. However, in light of influences beyond the Council's control, it is considered to be a strategy that would realise the core aim of the HIF and provide mechanism to support the delivery of the whole Link Road in the future and achieve the broader network benefits that it will, in combination with other interventions (including the RTS), improve potential congestion in the Colchester area. National planning policy requires that every planning application for new development demonstrates how it will adequately mitigate its impact on the surrounding transport network. Assessed as a first phase only, the Proposed Scheme is necessary to deliver the housing and associated development required to commence the Garden Community and secure such of its delivery as shall be possible for the duration of the local plan period.

It should be noted that although the RTS is funded under the same HIF agreement as the Link Road, it does not form part of this statutory process and is progressing under a separate statutory process with aspects of the RTS construction already underway. The RTS supports the adopted policy requirements for development of the TCBGC to achieve a high share of travel by sustainable modes.

17.2 The new plan to progress delivery in phases aligns with the HIF objectives while supporting the future delivery of the full Link Road. Whilst the Sustainability Appraisal (prepared for the Local Plans on behalf of Colchester and Tendring Councils) informed the adopted shared strategic Section 1 Local Plan, a phased approach to the delivery of the Link Road is not precluded by the relevant policy.

17.3 It is a requirement of Homes England, as funder of the Link Road under the HIF, that the contractual details of the Housing Infrastructure Fund Grant Determination Agreement remain confidential, as they are commercially sensitive. Other financial information is commercially sensitive due to the need for the Council to procure value for money in the award of construction contracts for the Link Road. The Council has undertaken significant engagement with those affected by the Link Road and the HIF bid document is in the public domain, alongside other relevant published information, see link at

Decision Details: Phasing of the A120-A133 Link Road including Procurement of Phase 1 of the A120-A133 Link Road, acquisition of land by Compulsory Purchase Orders and Award of Contract for Section A of the Colchester Rapid Transit System ([essex.gov.uk](https://www.essex.gov.uk))

17.4 Funding for a second phase to complete the full Link Road will be subject to developer contributions in association with proposals for development on TCBGC. National Highways have not objected to this statutory process and, if the owners of the land required for Phase 2 refused to sell, the use of compulsory purchase powers would be available for the Council and/or National Highways and/or the Local Planning Authorities to consider.

18. Sustainability of the Colchester Tendring Garden Community site development.

18.1 Development of the TCBGC is underpinned by the development plan and subject to separate planning process and does not form part of this statutory process which is focussed on the Proposed Scheme as a means of facilitating the sustainable development of the garden community consistent with policy objectives.

19. 'Deadweight' impact on traffic.

19.1 The concept of 'deadweight' is employed in HIF bid documentation as the number of homes 'expected to come forward even in the absence of HIF investment and which are not dependent on the transport scheme'. The scenario of 1000 homes being 'deadweight' was established through highways network modelling as an estimate of the point, beyond which, within the TCBGC location, there would likely manifest a 'significant worsening' of network performance in the absence of any highways or transport interventions.

20. Section One of the Local Plan requires that the full length of the link road to have financial commitment before any Colchester Tendring Garden Community site development planning permission is granted.

20.1 The adopted Section 1 Local Plan policy states that funding approval for the Link Road must be secured before granting planning permission for development of the Garden Community. This policy position does not necessarily prevent construction nor occupation of new homes. Funding for a second phase to complete the full Link Road will be subject to developer contributions in association with proposals for development on TCBGC. Most housing developments in the UK are financed through loans to developers. This allows for construction of infrastructure, including that required by planning permission, in advance of development income from sales.

20.2 The Proposed Scheme has the necessary funding and consents in place to proceed, subject to securing the land (the subject of this CPO). The justification for the phased approach to the Link Road is made in section 2.4 of the Statement of Reasons and has been subject to proper processes of decision-making at public authorities, including due consideration to effective use of public resources.

21. Impact on and nature of Tye Road.

21.1 Vehicles will still be able to travel from Elmstead Market to the north of Colchester using Tye Road and the wider minor road network following construction of the Link Road. The only difference will be that the first section of the journey will utilise the A133 and southern section of the Link Road to re-join Tye Road. Traffic modelling has been used to calculate the change in journey time using the proposed Link Road layout as being 35 seconds longer than the current journey by Tye Road only.

The impact of this very small increase in journey time is outweighed by the benefit derived from not providing a connection from the Link Road directly to Elmstead Market. If implemented this link is likely to attract rat running by people who consider Tye Road to be a short cut, particularly when the full Link Road is in place.

Additionally, the future Rapid Transit System will provide a public transport route to

the north of Colchester from the TCBGC site.

21.2 The DMRB is the guidance that informs highway design. The DMRB defines the standard lane width for a rural single carriageway road is 3.65m meaning that the full width of a compliant road would be 7.3m. Tye Road is generally well below this width over its entire length reaching a width of circa 4.4m at its narrowest locations.

These types of road widths aren't unusual on the minor road network. However, the attraction to rat run that is anticipated, if the southern section of Tye Road were joined to the Link Road, will increase the erosion of the verges caused by vehicle overrunning and the likelihood of collisions.

21.3 The Link Road design considers all road user groups and the implication of connecting both sides of the new Tye Road junction. As explained above, the findings of the design development process is that the disbenefit of a very small increase in journey time is outweighed by avoiding the creation of a rat run that could have a significant impact on the A133/Tye Road junction and the properties, such as Tye Green, accessed from it.

22. Not clear that phase 1 of the link road achieves its stated aims.

22.1 The benefit of the Proposed Scheme, as part of the full Link Road, is that it supports the delivery of the TCBGC development during the local plan period, in line with adopted planning policy. The funding from the HIF is in the public interest in that the objective of the programme is to accelerate housing delivery – in this case on a site allocated for development under adopted local plan policy.

23. The impact of the Proposed Scheme on agricultural land.

23.1 This statutory process focusses on the Proposed Scheme only. The balance to be struck between the loss of farmland and the need for the new garden community in this location was considered during the examination of the development plan which was found sound.

In the case of the A120/A133 Link Road, the impact of the scheme on agricultural land was assessed as part of the EIA undertaken to support the Council's planning application for the full Link Road, reference CC/TEN/31/21.

The EIA was undertaken in line with the requirements of the Design Manual for Roads and Bridges, LA112 Population and human health, and reported in the scheme's Environmental Statement. The magnitude of the agricultural land loss, due to the road scheme, was assessed as being minor adverse and the significance of the effect as moderately adverse. This formed part of the planning application for the full Link Road that was granted approval on 2 November 2021.

All planning documentation, including the Environmental Statement, can be viewed on the Essex County Council planning portal accessible via the following link <https://planning.essex.gov.uk/Planning/Display/CC/TEN/31/21>. Documents can be viewed by clicking on the Associated Documents tab at the top of the application page.

24. Difference of approach to the Welsh government.

24.1 The proposed A120/A133 Link Road supports delivery of the strategic aims of the Council as documented in Council decisions to proceed with the phased approach to the Link Road. The decisions of the Welsh Government are their own and do not influence this statutory process.

25. Achieving modal shift aspirations.

25.1 The achievability of modal shift aspirations for the site allocation will be tested through the DPD process, and the achievability of modal shift aspirations of the eventual development scheme will be evaluated through the determination of planning applications. The proposed principal TCBGC developer, Latimer, submitted a response to the Reg 19 consultation which did not say that they would not support off-site section 106 Town and Country Planning Act 1990 contributions. Latimer's commitment to the Link Road is to be secured in separate, future legal agreement(s) as a requirement of the granting of planning consent. A Memorandum of Understanding between Latimer and the local planning authorities detailing this is available
at:<https://talk.tcbgardencommunity.co.uk/27450/widgets/77995/documents/47336>

26. Impact on DPD hearing/The DPD may decide the Colchester Tendring Garden community site development is unviable.

26.1 The DPD Examination in Public is scheduled for 7-10 May 2024, and will be subject to normal procedures which assure independent scrutiny of the plan to test its soundness.

26.2 TCBGC is an allocated site in the adopted Section 1 Local Plan. The DPD for TCBGC is subject to separate statutory processes to this CPO and is yet to be examined.

27. Doubt that the developer will mitigate the traffic impacts of the Colchester Tendring Garden community site development.

27.1 National planning policy requires that every planning application for new development demonstrates how it will adequately mitigate its impact on the surrounding transport network. Therefore, the first planning application for any development at TCBGC will have to include appropriate and robust evidence to provide confidence that it is not having a severe impact on the network before any new housing is permitted.

28. Inadequate consultation/notification and consideration of responses.

28.1 The HIF bid documentation notes that 'RTS and the LR [*Link Road*] provide tangible benefit for existing residents of Colchester, which is likely to assist in public support for the [*infrastructure*] scheme'; 'RTS is a tangible benefit that is likely to lead to greater local support for the development'. There is no statutory basis for consulting any bodies in relation to the HIF bid process. Parish councils and other

local stakeholder groups were consulted as part of non-statutory consultation in November and December 2019, where four Link Road route options were considered. The final Link Road design was informed by responses to those consultations.

29. * Service of the Orders was inadequate

29.1 The Council has re-served the Orders for the Proposed Scheme and is satisfied that all known landowners have been served.

30. * Lack of justification for the use of compulsory purchase powers in relation to the part of the CPO Plan Land labelled 2b.

30.1 The willingness to cooperate and negotiate with the Council are noted and appreciated. The negotiations will continue regardless of the publication of this CPO and we are hopeful that these negotiations can be concluded in a timely manner.

It remains the Council's desire to acquire the necessary land and rights by negotiation. The CPO provides a fall back should, despite best efforts, the negotiations fail. The CPO process does not provide the powers to acquire land temporarily and can only be used for permanent acquisition. As such, plot 2b is identified as permanent acquisition when in fact the Council only wish to use the land on a temporary basis. This is reflected in the ongoing negotiations.

31. * Inadequate protection of landowner interests

31.1 The contractor commissioned by the Council to construct the consented Proposed Scheme will be required to comply with all planning conditions, statutory requirements and industry best practice. This will include working closely with those affected in order to ensure the impact of the scheme on them and their business activities are minimised.

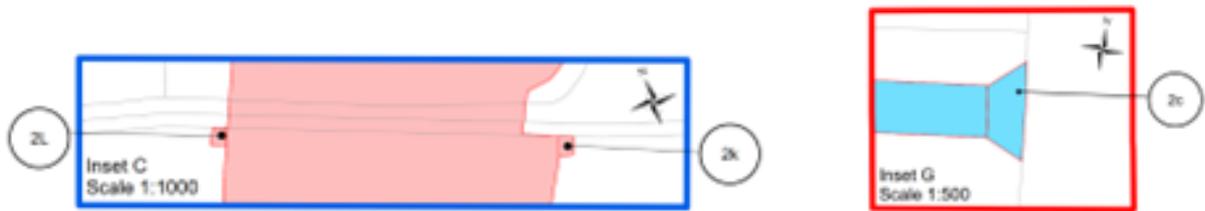
The scheme and accommodation works obligations listed in the objection correspondence are matters for the ongoing negotiations. Where appropriate, proper compensation in line with the Compensation Code will be payable.

32. * Inadequate detail in relation to land to be acquired on CPO Plan insets C and G.

32.1 The Council notes that printing errors have occurred that have resulted in the plot details not being shown in map insets C and G. However, the plots are included in the CPO schedule and listed in the Order. Requirements for the relevant plots are as follows:

Inset	Plot	Requirements
C	2k	To create a new field access.
C	2L	To create a new field access.
G	2c	The right to enter and re-enter for all purposes associated with the construction and maintenance of a headwall.

The Council will seek to modify the CPO plan to make this minor amendment within the Order confirmation stage to address this issue as shown below.



33. * The changes and alternative proposed to Turnip Lodge Lane do not protect the landowner's use agricultural vehicles for farming purposes.

33.1 Turnip Lodge Lane borders the northern limit of the objector's land holding. Site survey and review of aerial photographs do not suggest that the objector currently has any land parcels accessed via Turnip Lodge Lane. The section of Turnip Lodge Lane to be stopped up extends from the proposed roundabout in a westerly direction to the first field access that it reaches. Beyond this point Turnip Lodge Lane will remain open to traffic so maintaining access to this field. The 289 metres of Turnip Lodge Lane to be stopped up to vehicles does not and could not provide access to the adjoining fields due to the presence of existing hedges and ditches which are not being altered as part of the Proposed Scheme.

As such the Council does not consider this to have an impact on the objector's operations. Insofar as any injurious affection is claimed, this is a matter that should be considered in line with the Compensation Code.

34. * Justification for extent of accesses 2c and 2d on the SRO Plan not made out

34.1 Accesses 2c and 2d have been extended on the plan to link with the field edge features that are identified on the Ordnance Survey mapping. The access will be for the benefit of the objector only. It will be gated from the highway boundary and there will be no unwanted traffic on the retained land. Specific details of how the access will be laid out will be agreed as part of the accommodation works.

35. * Not all plots are needed for permanent acquisition.

35.1 The objector's willingness to cooperate and negotiate with the Council are noted and appreciated. The negotiations will continue regardless of the publication of this CPO and the Council are hopeful that these negotiations can be concluded in a timely manner.

It remains the Council's desire to acquire the necessary land and rights by negotiation. The CPO provides a fall back should, despite best efforts, the negotiations fail. The CPO process does not provide the powers to acquire land temporarily and can only be used for permanent acquisition. As such, plot 2b is identified as permanent acquisition when in fact the Council only wish to use the land on a temporary basis. This is reflected in the ongoing negotiations.

Furthermore, in the event negotiations were to fail and CPO powers used, any

surplus land, following completion of the scheme, would be disposed of in line with the requirements of The Crichel Down Rules. This means these plots would be offered back to the prior owner.

36. * Landowner understood Link Road would be further west than is shown on under the CPO thus avoiding being close to a residential dwelling.

36.1 The route of the Link Road as presented in the SRO and reflected in the land identified in the CPO remains as per the alignment granted planning permission. This has been the alignment consistently shared with the objector as the basis for negotiations.

37. * Insufficient information relating to Road Traffic Regulation Orders associated with the link road.

37.1 It should be noted that the associated orders listed in section 5 of the Statement of Reasons will be subject to separate Orders procedures under the Road and Traffic Regulation Act 1984 and as such are not included in the SRO.

These associated orders, necessary for the link road to operate safely, will be in place when the scheme is handed over from the contractor and become the responsibility of the Council. Prior to this, traffic management measures will be controlled by Temporary Traffic Regulation Orders to be submitted by the contractor.

38. * Gap closures in A133 central reserve.

38.1 The central reserve crossing points that are proposed to be closed are those on the A133 opposite its junctions with Elmstead Road and the access serving Tye Farm. These closures will be dealt with by the Road Traffic Regulation Orders process described above.

39. Both roundabouts should extend further into the Colchester Tendring Garden community site development on the W/NW sides

39.1 The design as presented on the SRO is that which was granted planning permission. Any additional stub associated with the TCBGC development will be included as part of the planning process relevant to the TCGBC development.

40. Delays in project to date

40.1 Delays in project delivery are in large part attributable to access to land, which is what this CPO seeks to address. As per the Statement of Reasons, the Link Road Phase 1 is scheduled to open in 2026 and this remains achievable subject to the CPO being confirmed.

41. Concern over need to use compulsory purchase powers to unlock private development land.

41.1 The aim of the CPO is to enable delivery of the Proposed Scheme, which has been established in adopted policy as the necessary infrastructure to support planned housing growth. The proposed principal developer of TCBGC is Latimer,

part of the Clarion Housing Group. Clarion Housing Group Limited is a charitable Registered Society (Registration Number 28038R). Clarion Housing Group Limited is regulated by the Regulator of Social Housing (RSH) as a not-for-profit social landlord (Registration Number LH4087).

42. Adequacy of the air quality model for the phased approach.

42.1 The results of the EIA undertaken to support the planning application for the A120/A133 Link Road, reference CC/TEN/31/21, concluded that the A120/A133 Link Road is predicted to have no significant effects on air quality.

In implementing the planning permission for the Link Road, the Council will need to demonstrate that it is doing so through the discharge of planning conditions associated with the permission, which includes a condition (number 3) on no development taking place until a schedule detailing the phasing and timetabling of development has been approved by the County Planning Authority. As part of that condition, the approval of a phased approach to delivery would have to be assured that implementation remained in accordance with the approved scheme, including the forecast impacts detailed in the EIA.

In the case of the Proposed Scheme, as the road itself is not a trip generator, any impact on air quality will manifest as a result of future development which is permitted and constructed and associated movements using the Link Road and wider network. The impact of the TCBGC development will be assessed as part of the planning application process, against the road network in place at the relevant time.

43. Changes to the route of the proposed rapid transport system will undermine the proposed wider transport benefits.

43.1 National planning policy requires that every planning application for new development demonstrates how it will adequately mitigate its impact on the surrounding transport network. Therefore, the first planning application for any development at TCBGC will have to include appropriate and robust evidence to provide confidence that it is not having a severe impact on the network before any new housing is permitted.

43.2 The RTS has been subject to options appraisal and public consultation, and the RTS scheme being implemented is designed to maximise overall net benefits. The emerging DPD policy provides for a Park and Choose facility associated with the TCBGC, along the A133, and the RTS will serve this facility when it is delivered. This provides significant benefits to those travelling from the University of Essex, and others already using the A133 to travel. The developers of the TCBGC will bring forward a planning application which will be determined against adopted planning policy and will be scrutinised for policy compliance on strategic goals to maximise sustainable travel mode share, including by high quality public transport, such as RTS services. As such, RTS service through the new TCBGC is considered a viable option. The CPO does not relate to any land required to deliver the RTS, which is already under construction.

44. Impacts of construction traffic.

44.1 A CEMP will be prepared by the contractor building the Link Road as part of the Council's contract arrangements and as a requirement of Condition 4 of the planning permission. That management plan will address how the adverse impacts associated with the development of the Proposed Scheme will be managed. The CEMP will be subject to approval by the planning authority including agreeing routes for construction traffic that reduce disruption to residents and businesses in the area, as well as a communications plan to ensure details of the Proposed Scheme's construction are properly disseminated.

17. Documents Maps and Plan Accompanying this Statement

- 17.1. The acquiring authority intends to refer to or put in evidence the following documents:
- i. Essex County Council (A120/A133 Link Road) (Phase 1 (Southern Section)) Compulsory Purchase Order 2023
 - ii. Essex County Council (A120/A133 Link Road) (Phase 1 (Southern Section)) (Classified Road) (Side Roads) Order 2023
 - iii. Statement of Reasons
 - iv. A120/A133 Link Road Essex County Planning Authority planning officers' report and recommendation (in committee report), committee minutes and committee addendum
 - v. Document of Essex Cabinet meeting confirming selection of preferred options
 - vi. Document of Essex Cabinet meeting confirming selection of scheme design
 - vii. Document of Essex Cabinet meeting confirming decision to proceed to planning
 - viii. Document of Essex Cabinet meeting confirming approval to commence CPO process
 - ix. Planning Statement for Planning Application ref: CC/TEN/31/21
 - x. Planning Application submission documents CC/TEN/31/21
 - xi. Environmental Statement, including non-technical summary and scoping report
 - xii. General Arrangement Plans
 - xiii. National Planning Policy Framework
<https://www.gov.uk/government/publications/national-planning-policy-framework-2> (available through the link or on request)
 - xiv. Design Manual for Roads and Bridges (DMRB) and associated documents
<http://www.standardsforhighways.co.uk/ha/standards/dmrb/> (available through the link or on request)
 - xv. Highways Act 1980
<http://www.legislation.gov.uk/ukpga/1980/66/contents> (available through the link or on request)
 - xvi. Acquisition of Land Act 1981
<http://www.legislation.gov.uk/ukpga/1981/67/contents> (available through the link or on request)
 - xvii. Human Rights Act 1998
<http://www.legislation.gov.uk/ukpga/1998/42/contents> (available through the link or on request)
 - xviii. Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15> (available through the link or on request)

- xix. Wildlife and Countryside Act 1981
<http://www.legislation.gov.uk/ukpga/1981/69/contents> (available through the link or on request)
- xx. Natural Environment and Rural Communities Act 2006
<http://www.legislation.gov.uk/ukpga/2006/16/contents> (available through the link or on request)
- xxi. The Conservation of Habitats and Species Regulations 2010/490
<http://www.legislation.gov.uk/uksi/2010/490/contents/made> (available through the link or on request)
- xxii. Guidance on compulsory purchase process and Crichel Down Rules (February 2018)
- xxiii. Transport Appraisal Guidance (TAG) and associated documents
<https://www.gov.uk/guidance/transport-analysis-guidance-webtag> (available through the link or on request)
- xxiv. Appraisal Specification Report
- xxv. Traffic Data Collection Report
- xxvi. Traffic Forecasting Report
- xxvii. Option Assessment Report
- xxviii. Local Model Validation Report (LMVR)
- xxix. Scheme Assessment and Technical Appraisal Report
- xxx. Road Safety Audit Report and Designers' Response
- xxxi. Economic Assessment Report

17.2. Copies of these documents may be inspected until the start of the Public Inquiry at Chelmsford Library, Colchester Library, Wivenhoe Library and Greenstead Library (details below).

Essex County Council, Council Offices, Chelmsford Library, Ground Floor, County Hall, Market Road, Chelmsford, CM1 1QH
During normal opening hours
Contact Number: 0345 603 7628

Colchester Library, Trinity Square, Colchester, CO1 1JB
During normal opening hours
Contact Number: 0345 603 7628

Wivenhoe Library, 104/106 High Street, Wivenhoe, CO7 9AB
During normal opening hours
Contact Number: 0345 603 7628

Greenstead Library, Hawthorn Avenue, Colchester, CO4 3QE
During normal opening hours
Contact Number: 0345 603 7628

Every statutory objector and interested party in this matter may inspect and take copies of the said documents.

The acquiring authority's documents can also be viewed on the project website at <https://www.essexhighways.org/a120-a133-link-and-rapid-transit>.