



# **Creation of Colchester Commercial (Holdings) Limited and a Trading Company**

## **Business Case**

June 2017

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# **1. EXECUTIVE SUMMARY**

## **1.1 Purpose**

This Business Case is designed to provide:

- Benefits and advantages of establishing a Holding Company, Colchester Commercial and a subsidiary Trading Company,
- Governance structure for Colchester Commercial and the Trading Company
- Financial overview of Colchester Commercial's forecast performance,
- Board and management structures

Colchester Commercial (Holdings) Limited (Colchester Commercial) will be a wholly owned local authority company, limited by shares and the Council will be the sole shareholder. Initially Colchester Commercial will be established via its group structure to maximise asset return, deliver on some of the Councils social policy priorities and deliver commercial services. Colchester Commercial will be a non-trading company.

In addition, the business case looks to establish a trading company for certain services together with integrating into the company structure, two further subsidiary companies already established (Energy Company and Housing Company).

## **1.2 Drivers for Establishing Colchester Commercial Holdings Limited**

There are two main drivers for the Council why it is establishing Colchester Commercial and its subsidiary Trading Company:

- To meet the objectives of the Council's Strategic Plan 2015-18 and,
- To meet the objectives of the Council's Medium Term Financial Forecast 2017/18 to 2020/21.

## **1.3 Benefits of a Trading Company**

A wholly owned local authority (trading company) allows appropriate democratic control, retaining a public sector ethos but enables it the freedom to operate more commercially and respond to the needs of its customers and the business sectors in which it operates.

The establishment of company arrangements has a number of advantages over continuing within the local authority structure. These include:-

- Creating and embedding commercial culture,
- Clear focus on its remit and quicker decision making processes
- Scope to change the employment package offered
- Ability to attract different skills and workforce

- Better response to market changes taking advantage of opportunities
- Integration into the commercial sectors' networking opportunities
- Generate profits to meet the aims of the Council.
- Speeding up delivery of redevelopment more generally and affordable homes specifically.
- Take advantage of other public sector partner aspirations in better utilisation of their land and property assets.

#### 1.4 Financial Benefits for Establishing Colchester Commercial and its Subsidiaries

The financial benefits of establishing the Company and its Subsidiaries are summarised in the table, below showing a forecast saving to the Council compared to the current budget of £0.8m. It should be noted that this includes some projections already included in the MTF. Further details can be found in Section 4 of this report and the full business case attached. In addition, the separate business cases for establishing the Energy Company and the Housing Company shows significant financial gains to the Council.

	2017/18	2018/19	2019/20	2020/21
	£'000	£'000	£'000	£'000
<b>Overall net change compared to 17/18 budget</b>	<b>107</b>	<b>(419)</b>	<b>(623)</b>	<b>(803)</b>

## 2. INTRODUCTION

### 2.1 Background

As financial constraints on local authorities specifically and the public sector more generally continue over the next 5 to 10 years, local authorities need to look towards more self-sufficiency in generating income and being more efficient in service delivery. This then enables the focus of resources to be on providing services to those in most need in society together with continuation of the more universal local government services provided to all residents within the Borough.

Therefore, there needs to be a renewed emphasis on the more commercial services to grow business and increase income and profitability, whilst delivering on some of the Councils social policy objectives of increasing housing supply; reducing energy poverty; and greater environmental sustainability. Equally important is the use of our assets for income generating purposes and a greater need to concentrate on creating and taking opportunities in the commercial market place. In addition, financial borrowing to invest in more lucrative business and property investments is another area to help generate much needed revenue funding for the Council. Much of this we have been doing to date but a more appropriate company and senior management structure provides for the focus and expertise to deliver even more fully

on the commercial aspects of the Council's financial needs.

The Local Government Act 2003 restricts local authorities from making a profit from its services, although they are able to offset on costs. The Localism Act 2011 enables local authorities to undertake activities to make a profit but only if delivered within a company.

A local authority trading company is a company established by the local authority in order to offer its services on a commercial basis. Local authorities can establish local authority trading companies through the powers in Section 95 of the Local Government Act 2003, and the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009.

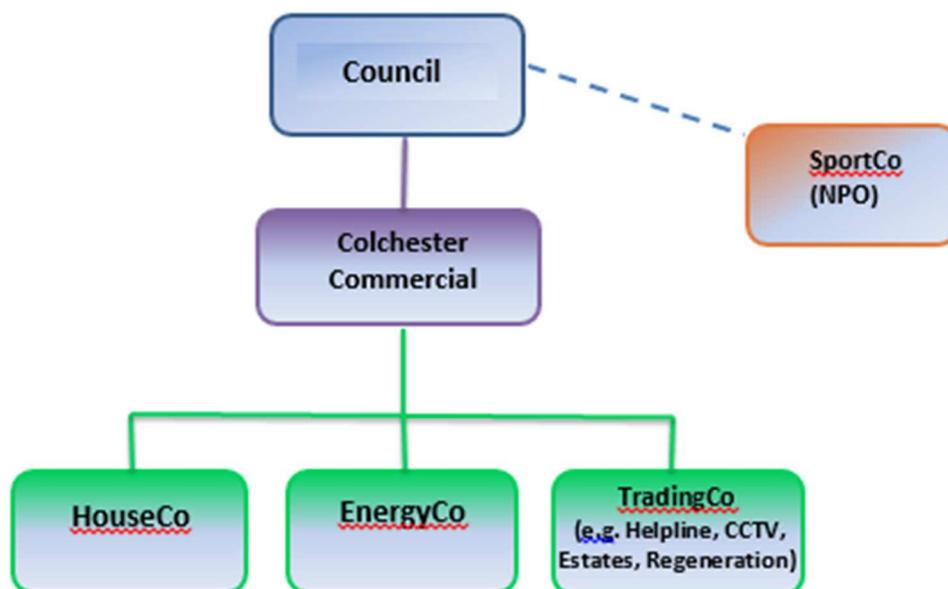
The Council is legally able to establish a wholly owned trading company where the Council retains full control over the direction of the local authority trading company, and manages its risks and receives the benefits in full. The Council will be the sole shareholder.

## 2.2 Scope and Structure

This Business case sets out the plans for, and the benefits of the Council's establishment of Colchester Commercial (Holdings) Limited known as "Colchester Commercial" and a subsidiary trading company for the provision of community alarms, CCTV monitoring; events; estates and regeneration. Colchester Commercial will be a wholly owned company, and each subsidiary is in turn, established as a wholly owned subsidiary of Colchester Commercial.

Colchester Commercial will be the conduit for governance and business plans for the subsidiaries.

### Proposed Structure



### Currently 'In Scope'

The detailed business plans for the Housing Company (HouseCo) and the Energy Company (EnergyCo) have been independently produced, with the Trading Company (TradingCo) business plans to be developed once the Colchester Commercial has been established.

It is proposed that Colchester Commercial goes live 1 July 2017 with 4 posts consisting of Managing Director (1 day a week), Assistant Director, Commercial Services Manager, and Finance Manager. The subsidiary companies of HouseCo, EnergyCo, and TradingCo will be established from 1 October 2017. HouseCo will comprise of 1 or 2 posts, and EnergyCo will initially consist of 1 post.

TradingCo will initially encompass the current Events Service, Helpline, and the CCTV Monitoring Service, along with the Estates and Regeneration functions totaling 105 headcount of staff transferring from the Council, including 61 casuals from the Monitoring and Events services. Service Level Agreements (SLA's) will be agreed for these business areas in terms of recharges and income targets.

### Future Scope

It is believed there are advantages to the Sport and Leisure business being set up as a Not for Profit Company and more detailed analysis of this business is to be carried out with further advice to be obtained regarding VAT and NNDR implications. However, the successful candidate appointed to the role of Commercial Services Manager within Colchester Commercial will be asked to manage the Sport and Leisure business on behalf of the council whilst this analysis work is undertaken. This analysis will also be looking at the systems used by this business due to the large number of transactions. The Commercial Services Manager will then produce a detailed Business Plan for the Sport and Leisure Business for 2018/2019 onwards which will either have been incorporated into the company structure or will remain in the service delivery of the Borough Council.

The reason for a manager in Colchester Commercial to manage Sport and Leisure is to continue its transition in cultural and performance terms.

## **2.3 Strategic Fit**

In 2015 the Council adopted the Strategic Plan 2015-18.

The Strategic Plan 2015-18 has a vision statement: "Rich heritage, ambitious future" and strategic descriptions of what we will work towards under:-

Vibrant	Promoting our heritage and working hard to shape our future.
Prosperous	Generating opportunities for growth and supporting infrastructure.

Thriving	Attracting business and selling Colchester as a destination.
Welcoming	A place where people can grow and be proud to live.

The establishment of company arrangements has a number of advantages over continuing within the local authority structure. These include:-

- Create a commercial culture
- Clear focus on its remit
- Quicker decision making processes
- Ability to take advantage of business opportunities as they arise
- Scope to change the employment package offered
- Ability to attract different skills and workforce
- Accelerating the different culture required
- Better tracking and response to market changes
- Integration into the commercial sectors' networking opportunities.
- Generate profits to meet the aims of the Council.
- Speeding up delivery of redevelopment more generally and affordable homes specifically.
- Take advantage of other public sector partner aspirations in better utilisation of their land and property assets.

The advantages and disadvantages are shown in the table below:

Advantages	Disadvantages
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<p>Colchester Commercial will provide a "strategic anchor" for the subsidiaries</p> <p>Enables the Council to exercise absolute control whilst creating an appropriate balance of autonomy and degree of separation from the Council</p> <p>Provides a forum for elected members / executives to provide leadership and accountability whilst allowing senior officers to manage and represent the subsidiaries</p> <p>Its own company decision making process whilst dovetailing into the Council's governance process.</p> <p>Provides a 'tried and tested' structure that is widely adopted in the private sector</p> <p>Enables prudential borrowing and external finance solutions to be accommodated at subsidiary level</p>	<p>Creates an additional administrative layer which may have resource and cost implications</p> <p>Creates an additional board for which the Council will need to nominate representatives</p>
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Colchester Commercial will focus on:-

- Ensuring delivery of some of the Council's social policy responsibilities
- Maximising asset return,
- Delivering the Council's commercial services via TradingCo, and
- Building further Council properties from the General Fund

## 2.4 TradingCo

The TradingCo will manage and deliver the future income targets for the following:

- The Events Service,
- Helpline and CCTV monitoring.
- Sports & Leisure activities across the Borough (subject to further work and a further Cabinet report)

It will also:

- Manage on behalf of the Council, its Estates and Regeneration functions.

- Consider the potential re-alignment of services to provide new income generation
- Focus Service Reviews on commercial income opportunities

## **2.5 Housing Company**

The Council has agreed to establish a Housing Company (HouseCo) which will be part of the group of companies, as a subsidiary of Colchester Commercial to ensure it operates in line with Council philosophy and delivers on the Council's priorities. As the Council has agreed in principle to consider building further properties from the General Fund and for Colchester Borough Homes to manage the rental properties, it seems logical to utilise the expertise and senior management capacity within Colchester Borough Homes.

## **2.6 Energy Company**

The Council has agreed to establish the Heat Network Company (EnergyCo) which will be part of the group of companies as a subsidiary of Colchester Commercial to ensure it operates in line with Council philosophy and delivers on the Council's priorities.

## **3. Process**

The Council will continue to provide support services to Colchester Commercial through Service Level Agreements (SLAs). SLA's will be based initially on recharges which will be reviewed in line with the Support Services listed below. The remainder of 2017/2018 will be utilised to fully review and implement full SLA's ready for 2018/2019.

Colchester Commercial will negotiate individual SLAs with each of the Council's support services to reflect the needs of Colchester Commercial as a whole and each of its subsidiaries. Each SLA will include measurable performance indicators, break clauses and remedies for non-performance.

There will be an annual review process whereby SLAs are refined to more accurately reflect the support required by Colchester Commercial.

Support Services include:

- HR Support, including recruitment and training,
- Payroll and Pensions
- Finance- transactional finance functions and financial controller activities,
- IT- provision of IT equipment and services- including helpdesk support,
- Customer Services,
- Telephone answering service and taking telephone payments,
- Insurance provision (buildings, vehicles, employers and public liability),
- Legal Support as and when required.

### **3.1 Property and Assets**

The registered office of Colchester Commercial and its subsidiaries will be Rowan House, 33 Sheepen Road, Colchester, CO3 3WG.

### **3.2 Intellectual Property**

Intellectual property will be purchased from the Council at a nominal value when Colchester Commercial via its subsidiaries starts trading.

### **3.3 Policies and Procedures**

Colchester Commercial will continue to use all relevant Council policies and procedures in the first instance. However pay terms and conditions for newly appointed staff will be reviewed and adopted in line with future needs.

### **3.4 Information Sharing**

An information sharing protocol will be developed during implementation.

### **3.5 Data Protection**

Colchester Commercial will comply with the relevant legislation and guidance concerning Data Protection, including adopting suitable policies and procedures to ensure data is adequately safeguarded.

### **3.6 Freedom of Information**

Colchester Commercial will be subject to requests for the disclosure of information under the Freedom of Information Act 2000 in its own right. As such, Colchester Commercial will maintain a record management system that complies with the relevant guidance concerning the maintenance and management of records.

Colchester Commercial will liaise with the Council as appropriate to ensure consistency in answering Freedom of Information requests and provide such information to the Council as it may require to answer requests it has received.

### **3.7 Business Development**

In line with the Council's Vision and Values, the Colchester Commercial approach to business development will be:

- Focus on retaining our existing customer base whilst driving up quality and bringing down costs,
- Expand our customer base and income streams,
- Develop new and innovative services, and

- Build key customer relationships from a network of potential clients that will include local land and property owners, Local Authorities, Parish Councils, and Public Sector agencies.

### **3.8 Marketing Strategy**

In line with the Council's Vision and Values, Colchester Commercial will develop its marketing strategy and an identifiable brand to potential customers.

## **4. GOVERNANCE AND MANAGEMENT**

This Business Case will be delivered in full compliance with the governance requirements set out by the Council. Colchester Commercial will seek to maintain and enhance the Council's reputation and brand for high standards.

Colchester Commercial will establish and maintain an effective service and financial performance management reporting system which will include effective reports to Colchester Commercial Board and the Council's Trading Board.

Colchester Commercial will be subject to any audit and inspection requirements of the Council.

### **4.1 Colchester Commercial Board of Directors**

Colchester Commercial's Board of Directors shall comprise up to five Directors:

- (a) Four Borough Councillors and;
- (b) Colchester Commercial's Managing Director.

Colchester Commercial and its subsidiaries will deliver on some of the Borough Council's Social Policy objectives whilst retaining a public sector ethos and operating in a commercial environment. One of the four Borough Councillors will be the Council's Portfolio Holder for Commercial Services.

The quorum for board meetings shall be three and each director shall have one vote.

Board meetings shall be held at least quarterly.

An agenda for the meeting will be prepared and distributed not less than five business days prior to the meeting.

Except where the information is commercially sensitive, minutes of Board meetings will be provided to the Trading Board for noting.

### **4.2 Colchester Commercial's Managing Director and Company Secretary**

The Managing Director of the Colchester Commercial shall be the Chief Executive of

the Council. The Managing Director will act as the key conduit between Colchester Commercial and the Council, and shall have overall responsibility for ensuring compliance with the Shareholder Agreement.

The Company Secretary function of Colchester Commercial shall be carried out by the Finance Manager.

### **4.3 Management of the Subsidiaries**

The Subsidiaries of Colchester Commercial will be managed by an Assistant Director as set out in the Subsidiaries Business Plans.

TradingCo will be managed by the Commercial Services Manager, who will work up full business plans for Helpline, CCTV, Events, and Sport and Leisure. A review of the management and resources of the Estates Events and Regeneration Function are currently under review and will be implemented prior to staff being transferred to the Company.

### **4.4 Trading Board**

Councillors who are appointed as Colchester Commercial board directors cannot be full members or substitutes of the Trading Board.

The role of the Trading Board of the Council will be reviewed and revised to:

- (a) Recommend, where relevant, the constitution and appointment of the Board of Directors,
- (b) Receive, review and recommend the Colchester Commercial business plans annually,
- (c) Review the financial performance of Colchester Commercial, and
- (d) Make recommendations to Full Council on how it should exercise the functions flowing from its ownership of shares.

The Trading Board will still not have decision making powers but will make recommendations to the Cabinet as now.

## **5. FINANCIAL**

### **5.1 Existing service budgets**

The proposals within this report include creating company arrangements for a number of existing Council services. The following table sets out a summary of the 2017/18 direct budgets for these areas:-

	CCTV and Helpline	Events	Commercial Management	Estates and regeneration	Total
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	£'000	£'000	£'000	£'000	£'000
Direct Expenditure	844	384	24	810	2,062
Direct income	(1,067)	(496)	0	(5)	(1,568)
<b>Net direct cost / (surplus)</b>	<b>(223)</b>	<b>(112)</b>	<b>24</b>	<b>805</b>	<b>494</b>

The existing budgets include some changes, specifically:-

- Senior management restructuring, including the deletion of the Economic Growth Manager post and changes made in respect of the Commercial Services Manager.
- Review and restructure of Economic Growth team

## 5.2 Support Services / Recharges from the Council

The above information includes direct budgets. In addition there are a number of support services provided or costs managed centrally for which we are required to charge to service areas to reflect the full cost. The intention is that the Council will continue to provide these support services to the new companies.

As a starting point it is assumed that the Council will continue to provide support services to the commercial companies. Formal Service Level Agreements (SLAs) will be prepared to reflect services provided. Charges made will be invoiced and will be subject to VAT as applicable.

It is proposed that a review of these SLAs and charges is carried out after 6 to 9 months to ensure the content and costs reflect the services carried out.

The summary below sets out an estimate of the current total recharges made with an assessment of those that would be applicable as charges to the company. Some charges relate more to assets which would stay with the Council or reflect an allocation of central costs which would not form part of a cost of the company. The overall position is set out in the following table.

<b>Summary</b>	Trading	Estates and Economic Growth	Total
	£'000	£'000	£'000
Insurance	13	9	22
Communications, marketing and PR	38	17	55
ICT, systems and telephony	92	60	152

Fleet	22	-	22
Finance, HR, internal audit , PSU & legal	113	102	215
Accommodation and associated facilities	74	47	121
<b>Total Company charges</b>	<b>351</b>	<b>234</b>	<b>586</b>
<i>Recharges remaining with the Council</i>			
Repairs, PPM etc	40	25	65
Property Insurance	-	42	42
Legal (council related)	3	61	64
Other corporate / allocated costs	42	37	79
<b>Total recharges remaining within CBC</b>	<b>85</b>	<b>165</b>	<b>250</b>
<b>Total existing recharges</b>	<b>436</b>	<b>400</b>	<b>836</b>

### 5.3 Charges to the Council / Management Fees

The proposed company includes functions which would provide services to the Council in addition to those services provided to external customers. These services include:-

- Estates and economic growth team who will deliver management of the Council's commercial assets, broader asset management and also major investment projects.
- The CCTV service is provided to the Council as part of the community safety arrangements and also provides an out of hour's service.
- The Events team provide management and resources to deliver community projects in addition to commercial functions

It will be necessary to agree charging methodology with the Council but this business case simply assumes that the current net cost of these functions will become a management fee paid by the Council.

### 5.4 New costs – implementation and recurring costs.

Consideration has been given to any additional costs to setup and run the proposed companies. These fall into 3 main areas and are set out in summary in the following table:-

- Corporate ICT and finance systems.
- Company costs (accounts, audit & banking etc)
- Culture change / company development

	One-off	Recurring
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	£'000	£'000
Systems Costs	95	40
Statement of Accounts, Audit etc.		25
Culture Change / Development	10	
<b>Total</b>	<b>105</b>	<b>65</b>

## Net income Projections

The income projections shown in the business case reflect those originally set out in the Events and Community Alarms business cases as amended as part of the budget process. These included assessments of the potential for income growth through new business, services and customer numbers.

In addition an initial target of a further growth in income of £100k has been assumed in 2019/20.

## Taxation

Advice on taxation (VAT, Stamp Duty Land Tax and Corporation Tax) has been received and is set out in detail within the background papers. The business plans for the subsidiary companies have been reported and reflected in those reports.

Some of the key points to note are:

- Each company will be subject to Corporation Tax on its taxable profits.
- Group relief applies through a 'losses group' meaning that any losses in one company can be used to offset profits in another company within the company structure.
- In terms of VAT the companies can form a VAT group meaning that all members are treated as a single entity.
- Support service charges to the companies will be subject to VAT.
- In respect of the trading company most charges currently made (such as community alarms) are subject to VAT and this will continue for the company.
- There is further work required to ensure that any VAT implications of the events service are fully understood and are managed.

Consideration will be given to taxation issues as part of the final arrangements of the company setup and operating arrangements.

## 5.5 Contingency / Risk factor

In setting up the proposed companies it is important to consider the transfer of risk from the Council to the company. The Council does not include any general contingencies within service budgets, however, any budget variances are managed corporately as part of the normal budget monitoring process. The Council does though consider financial risks as part of the assessment of the recommended level of balances.

As part of finalising the company arrangements consideration will also be given to an appropriate loan facility to provide for any setup costs and to provide a cashflow facility for the company.

## **5.6 Holding Company**

As set out in this Business Case it is proposed to setup a holding company; Colchester Commercial (Holdings) Limited (Colchester Commercial). This will predominantly comprise core staff resources for the company structure of: Managing Director, Assistant Director, Commercial Services Manager and Finance Manager. The estimated cost (including on-costs) is c£284k.

The cost of the team can be largely funded by existing Council budgets and was assumed in determining the senior management restructuring savings. The Finance Manager is a new position and reflects the need for additional resources within the company structure to support delivery of major projects, investment and the size of the business. Funding for this role has been identified in part from a review of the existing Economic Growth team and also from the allocation for running costs built into the Housing company and Energy company proposals.

## **5.7 New areas**

### **5.7.1 Housing company**

See separate report on 14 June 2017 Cabinet agenda.

### **5.7.2 Heat Network**

On 15 March 2017 Cabinet approved the detailed business case for the proposed Colchester Northern Gateway Heat Network development (EnergyCo). It has been recommended to full Council that the scheme is included in the RIF capital programme on the assumption of the figures and funding shown within the report (including a capital contribution of £2.5m), noting that further commercialisation work is required and a further report following this phase will be brought back to RIF Committee prior to the appointment of a contractor.

The proposed setup of a company for the development and management of the heat network was agreed and that a further report with details on the governance arrangements of the company will be brought back prior to the creation of any structure. This Cabinet report now deals with the management and governance arrangements.

It was agreed to approve that £300k of New Homes Bonus monies was earmarked to support start-up costs for the Council and Company.

## **5.8 Summary Position**

The following table sets out the summarised financial projections for Colchester Commercial and TradingCo (the table excludes EnergyCo and HouseCo which are subject to separate business cases).

	2017/18	2018/19	2019/20	2020/21
	£'000	£'000	£'000	£'000
Current trading services expenditure	2,062	2,062	2,062	2,062
Holding Company staff costs	284	284	284	284
Estimated additional costs	105	65	65	65
Estimated charges from CBC	586	586	586	586
<i>Total cost of Holding Company and Trading Company</i>	<i>3,037</i>	<i>2,997</i>	<i>2,997</i>	<i>2,997</i>
Current income	(1,568)	(1,738)	(1,768)	(1,768)
New net income growth	(43)	(43)	(143)	(143)
<i>Total external income</i>	<i>(1,611)</i>	<i>(1,781)</i>	<i>(1,911)</i>	<i>(1,911)</i>
<b>Net implied management fee / charges to CBC</b>	<b>1,426</b>	<b>1,216</b>	<b>1,086</b>	<b>1,086</b>

The table shows an anticipated saving by 2019/20 of £340k.

The full budgetary position for Colchester Borough Council is set out in the table below compared to the existing 2017/18 budget. This includes savings from the senior management restructuring agreed by Cabinet.

	2017/18	2018/19	2019/20	2020/21
	£'000	£'000	£'000	£'000
Management Fee / charges for services	1,426	1,216	1,086	1,086
Income re:-support functions	(586)	(586)	(586)	(586)
Senior Management restructuring	(60)	(208)	(208)	(208)
<b>Total cost to CBC</b>	<b>780</b>	<b>422</b>	<b>292</b>	<b>292</b>
Existing budget - trading services	494	494	494	494
Existing budget - senior management roles	241	241	241	241
<b>Total existing budgets</b>	<b>735</b>	<b>735</b>	<b>735</b>	<b>735</b>
<b>Comparison to existing budget</b>	<b>45</b>	<b>(313)</b>	<b>(443)</b>	<b>(443)</b>
<i>New business case areas:-</i>				
Energy Company - CBC position	66	(80)	(77)	(74)
Housing Company - CBC position	(4)	(26)	(103)	(286)
<b>Overall Net change compared to 17/18 budget</b>	<b>107</b>	<b>(419)</b>	<b>(623)</b>	<b>(803)</b>

Some of the net additional costs in year can be met from existing budgets, such as an existing allocation for culture change.

Given there remains work to conclude the setting up of the company and to fund one off costs, some of which will require further work to confirm, it is proposed that the Council allocates £250k from New Homes Bonus in 2017/18 to support the delivery and implementation of the company proposals including the Housing company.

In addition, to the impact of these changes on the Council budget it should also be noted that the MTFF also assumes additional income in respect of increased commercial income which would be delivered within the Council. The table below sets out annual increases in income currently within the MTFF.

	2018/19	2019/20
	£'000	£'000
Commercial assets	395	200
Digital Strategy	40	0
<b>Income projections in MTFF</b>	<b>435</b>	<b>200</b>

## 6. Human Resources

### 6.1 Staffing

Services transferring to the company will involve a TUPE transfer of staff transferring to the Colchester Commercial (Holdings) Limited (Colchester Commercial) or one of its three subsidiaries companies on their existing contractual arrangements and terms and conditions.

The following table provides the headcount of services transferring to Colchester Commercial (Holdings) Limited or its subsidiaries.

Colchester Commercial/ Subsidiary	Team	Permanent Headcount	Casual
Colchester Commercial	Managing Director Assistant Director Senior Commercial Manager	3	0
Subsidiary	Regeneration Team and Estates	19	0
Subsidiary	Monitoring Centre	20	24
Subsidiary	Events	5	37
<b>Total</b>		<b>47</b>	<b>61</b>

It is becoming increasingly difficult to recruit to certain professional roles and attract the people with the required level of skills to deliver significant regeneration within the Borough. The formation of the company does provide an opportunity to review

terms and conditions and salaries and develop a remuneration package which better reflects the external commercial market and address skills gaps.

In addition, the creation of the company will facilitate a re-focus on marketing, sales and income generation and as the company evolves there will be an opportunity to develop incentives to staff to deliver sales targets.

Colchester Borough Council introduced performance-related payments for Commercial Managers in 2014, in recognition of the challenges of attracting staff with commercial, private sector business skills. Commercial Managers at the Council can earn additional payments, up to a maximum bonus, depending on the achievement of income targets and procurement savings. Similar performance-related pay arrangements to building control management and staff will be implemented. In addition, the current Officer Pay Policy allows for the payments of recruitment payments (a golden hello) and retention payments.

Accepting that the terms and conditions for transferring staff are protected, we would be seeking to introduce different contractual arrangements for staff newly appointed to the company. The intention would be to offer different pension arrangements, sickness benefits, annual leave etc. The issues of creating a two tier organisation in terms of equal pay and equity are acknowledged, but this will be kept under review and managed. UNISON will continue to be consulted on the proposals as the company develops.

Colchester Borough Council is a Living Wage organisation and pays at least the living wage of £8.45 to employees. This will extend to Colchester Commercial as per staff working for Colchester Borough Council contractors.

## **6.2 Pensions**

Staff transferring from Colchester Borough Council to the company will retain their Local Government Pension Scheme (LGPS) pensions. The company will close the LGPS pension scheme to new employees once a new set of pay and terms and conditions have been approved and an alternative pension will be provided.

When staff transfer out of the local authority an actuary evaluation has to be calculated to identify the potential impact on the Council's primary contribution rate if the LGPS members transfer to the Company. The primary contribution rate may increase if transferring members are on average younger than the existing membership at the Council.

Based on the profile of staff transferring, it is not believed that the contribution rate will significantly change. An actuary calculation will also be required to calculate the employer contribution for Colchester Commercial (Holdings) Limited. If the employer contribution for the Council increases this will be balanced by a lower contribution rate for the company and therefore the overall financial impact will be cost neutral.

## **6.3 Organisational Development/Culture Change**

Investment in staffing and learning and development will be central to the success of the company. Further significant cultural shift will be required within the company if it is to be a commercial success. This will involve the establishment of a company vision, goals and new expectations in terms of working practices, clear accountabilities etc. to build some momentum.

Staff will also need to understand the difference between operating commercially within a local authority and operating in the company with an increased focus on commercial delivery and performance. This will require excellent leadership, staff engagement and coaching support.

Outcomes and performance will need to be monitored through real time information for costs, sales and income and this will require new systems and an investment in skills.

A budget of £10k has been identified from existing budgets to support staff through this transition and to ensure the Company's commercial ambitions and targets are achieved.

#### **6.4 Apprenticeship Programme**

The company will be subject to the apprenticeship levy of 0.5% of the total salary bill. The apprenticeship levy can be used to pay for training for a new apprentice or professional and skills development for existing employees.

The transfer of staff from the Council to the company will mean that the apprenticeship levy cost for the Council will reduce by the same amount that the levy will cost the company. As a separate company, Colchester Commercial Holdings Ltd will be eligible to receive the £15k apprenticeship allowance in its own right.

### **7. RISK MANAGEMENT PLAN**

The Risk Management Plan including the PESTLE and SWOT analysis is provided as an Appendix to this business case.

# RISK MANAGEMENT PLAN

## Appendix

The Localism Act requires a Council to include a risk assessment as part of the business case when establishing a local authority trading company. This risk assessment considers the risks for the proposed holding company structure

In order to properly assess the risks associated with establishing a new company a high level PESTLE Analysis and SWOT Analysis have been prepared to inform the Risk Management Plan.

### PESTLE Analysis

The PESTLE is a high level analysis that examines the external environment and identifies the Political, Economic, Social, Technological, Legal and Environmental factors that could impact the Holding Company and its subsidiaries.

<b>Political</b> <ul style="list-style-type: none"><li>• Reform of the planning, housing and energy legislation</li><li>• Economic growth</li><li>• Need to deliver more housing</li><li>• Funding</li><li>• Changes in national and or local political priorities</li></ul>	<b>Economic</b> <ul style="list-style-type: none"><li>• Investment and mortgage finance constraints</li><li>• Status of the housing and commercial property market and developments</li><li>• Interest rates</li><li>• Taxation</li><li>• Market and trade cycles</li></ul>
<b>Social</b> <ul style="list-style-type: none"><li>• Demand for home ownership</li><li>• Demand for helpline services</li><li>• Housing shortage</li><li>• Consumer choice</li><li>• Leisure spend</li></ul>	<b>Technological</b> <ul style="list-style-type: none"><li>• Energy infrastructure</li><li>• Intellectual property</li><li>• Innovation in construction</li><li>• Telecare developments</li></ul>
<b>Legal</b> <ul style="list-style-type: none"><li>• Reform in the planning system</li><li>• Banking legislation- impact on lending</li><li>• Environmental legislation and targets</li></ul>	<b>Environmental</b> <ul style="list-style-type: none"><li>• Sustainable building requirements</li><li>• Climate change</li><li>• Weather conditions</li></ul>

The biggest impact on the company structure will be felt from fluctuation in the housing market. It will be a priority of the Housing Company to monitor trends in the housing market during its business planning process to ensure that developments respond to the requirements of the local housing market.

This high level analysis does not raise any major concerns which would deter the Holding company structure from entering the competitive market to deliver the proposed services.

## SWOT Analysis

A SWOT Analysis examines the Strengths, Weaknesses, Opportunities and Threats that would impact the Holding Company structure.

<p><b>STRENGTHS</b></p> <ul style="list-style-type: none"> <li>• Speed of decision making</li> <li>• Reputation</li> <li>• Local market knowledge</li> <li>• Assists Council with delivering the aims of the MTFs</li> <li>• Assists the Council with delivering its strategic plan objectives</li> <li>• Established team with skills and expertise to provide early stage support</li> <li>• Immediate access to Council portfolio of land and property with potential to create a strong pipeline of future development projects</li> </ul>	<p><b>OPPORTUNITIES</b></p> <ul style="list-style-type: none"> <li>• Benefits from reform of planning system</li> <li>• Cost reduction via implementation of senior management restructure</li> <li>• Ability to act as developer of land</li> <li>• Assists the Council with accelerating the delivery of re-development and affordable homes</li> <li>• Support the culture change across the Council to a more commercial approach</li> <li>• Work in partnership with partners to ensure mutual benefit</li> <li>• Contract and Employment</li> <li>• Private sector opportunities</li> <li>• Apprenticeship opportunities</li> </ul>
<p><b>WEAKNESSES</b></p> <ul style="list-style-type: none"> <li>• Culture of complacency</li> <li>• Lack of experience in a commercial environment</li> <li>• Resistance to change</li> <li>• Economic downturn</li> <li>• Lack of investment in resources; website, systems and marketing</li> <li>• Council inexperienced at developing commercial companies working in competition</li> </ul>	<p><b>THREATS</b></p> <ul style="list-style-type: none"> <li>• Shortage of available land</li> <li>• Difficult economic climate</li> <li>• Competition from other established organisations in the market</li> <li>• Exclusion and/or isolation from partnerships</li> <li>• Property market can be subject to volatility in cost and sales</li> <li>• Adverse legislative changes.</li> </ul>

## **RISK MANAGEMENT PLAN**

### **Holding Company Strategic Objectives**

- To maximise on commercial opportunities,
- To trade in a manner that, wherever possible, acts in the best interest of the Council and its policy objectives,
- To establish the HouseCo as a successful local developer with a reputation for delivering high quality, well-designed property,
- To optimise the financial return from Council owned land and property,
- To make a positive contribution to the delivery of regeneration across the Borough to meet the Council's Strategic Plan Objectives,
- To recycle surplus funds generated from these projects to support the corporate objectives of Colchester Borough Council and enhance its reputation and financial viability

Commercial risks such as venture failure and financial loss ultimately resides with the Council. Wherever possible the Holding company structure shall put in place measures to mitigate risks. Providing and delivering services in a commercial environment is a new venture for the Council and as such it has not been possible to quantify all of the risks associated with such a venture. This in itself is a risk for the Council. However, proper performance management, monitoring, business planning and financial control at the Holding Company level will reduce and mitigate risk further.

The table below identifies the risks associated with the Holding Company structure and provides an outline of how each risk will be managed. Please note that the list provided below is not exhaustive and will be reviewed on a regular basis. It should also be noted that each subsidiary company in its own business planning process will include a risk register.

**Legislation**

Identified Risk	Management of Risk	Risk Score		Risk Owner
<p>Changes in Planning, Housing and Energy Policies could have an impact, for example, changes to Affordable Housing, Starter Homes, and Self-build could impact the profitability of a particular development.</p>	<p>The HouseCo will have regard to emerging changes to national planning policy, local planning policy and changes to legislation/regulation during the development appraisal process. These matters will be addressed through business planning and the planning application process.</p>	Likelihood Impact Risk	3 2 6	Assistant Director – Commercial

<b>Governance</b>				
<b>Identified Risk</b>	<b>Management of Risk</b>	<b>Risk Score</b>		<b>Risk Owner</b>
The speed of the decision making process may have an impact on the Holding Company's ability to operate effectively in private sector markets.	In accordance with the Council's Constitution a Full Council or Cabinet meeting can be convened to deal with any urgent business as can a decision by the Council's Portfolio Holders. The Decision Matrix will clarify decision making at various levels.	Likelihood Impact Risk	3 4 12	Monitoring Officer
Lack of key skills amongst Board Members could result in the Holding Company failing to maximise on commercial opportunities.  Lack of key skills amongst management could result in the Holding Company failing to maximise on commercial opportunities.	Appointment by the Council of Board Members must ensure they have the necessary skills and/or development to work in a commercial environment.  Appointments to the Holding Company management positions have the necessary expertise to work in a commercial environment.	Likelihood Impact Risk  Likelihood Impact Risk	2 4 8  2 4 8	Chair of Colchester Commercial Board Managing Director of Colchester Commercial

**Economic**

Identified Risk	Management of Risk	Risk Score		Risk Owner
<p>The Holding Company cannot increase its indebtedness without the consent of Full Council, it is likely that loans will be provided by the Council (subject to Full Council approval of the Business Case for the loan).</p> <p>If the Council's MTFS is not successfully implemented this will reduce availability of loan finance to the Holding Company. This means the Holding Company would need to borrow from the 'market' and as such will undermine the Holding Company's profitability and cash flow as the Holding Company would not be able to benefit from the same terms and conditions of a loan agreement if it went to the market for such a loan.</p>	<p>In considering an application for a loan from the Council, the Holding Company shall engage with the Council's Chief Financial Officer as early as possible to enable the Council to assess its financial position and appropriately within the MTFE.</p> <p>The Council shall make a decision on whether to provide the Holding Company with a loan as early as practicably possible; if it is not possible this will enable the Holding Company to consider alternative options for financing.</p> <p>All parties shall have regard to the Council's decision making processes.</p> <p>The Holding Company shall, wherever possible, adhere to the deadline requirements of the Council's Committee and Council meetings.</p>	<p>Likelihood Impact Risk</p> <p>Likelihood Impact Risk</p>	<p>3 4 12</p> <p>3 3 9</p>	<p>Chief Financial Officer</p> <p>Managing Director, Colchester Commercial</p>
<p>Changes in taxation, interest rates and build cost inflation could have an impact on the viability and profitability of the Holding Company.</p>	<p>At present changes in taxation is not a known risk, however, the Holding Company should have regard to the impact of any such changes.</p> <p>Building cost inflation is the key risk; to minimise the impact of this contracts will be let with costs defined.</p> <p>The Chief Financial Officer, and the Assistant Director of Colchester Commercial together with the Board of the Subsidiary, will monitor changes and factor any changes into the business planning process.</p>	<p>Likelihood Impact Risk</p>	<p>3 3 9</p>	<p>Chief Financial Officer</p> <p>Assistant Director Colchester Commercial</p>

Economic downturn could result in less than anticipated (or even losses) assumed in the Business Plan	A full assessment of the market conditions will be carried out prior to any development commencing. In the event that an economic downturn occurs once a development has commenced, the Holding Company will assess the ability to reduce costs and reduce the development.	Likelihood Impact Risk	3 4 12	Board of Colchester Commercial
Inability to repay loans.	The Holding Company Board shall inform Full Council as soon as is practicably possible of any significant changes that may impact on the repayment of the loans.  Where relevant the Holding Company Board shall present to Full Council an amendment to the Business Plan or, if necessary, present an Exit Strategy, for approval.	Likelihood Impact Risk	2 5 10	Managing Director, Colchester Commercial
In order to prosper in a commercial environment, cash flow for the Holding Company will be essential.	The Holding Company shall through the annual review of the Business Plan ensure that sufficient provision is made to provide cash flow to achieve the aims of the Business Plan.	Likelihood Impact Risk	3 4 12	Holding Company Board
Inability to finance further commercial opportunities identified or presented.	Should opportunities arise that are outside of the scope of the Business Plan the Holding Company shall liaise with the Council and prepare a revised Business Proposition, at the earliest opportunity, which will include identifying loan funding (to be approved by Full Council) that would enable commercial opportunities to be realised.	Likelihood Impact Risk	2 3 6	Holding Company Board

**Operational**

<b>Identified Risk</b>	<b>Management of Risk</b>	<b>Risk Score</b>		<b>Risk Owner</b>
Inadequate cost controls on commercial build contracts leading to delays, overspends and reduced profitability/cash flow for the company.	Proper contract management and documentation in place prior to contracts being let.	Likelihood Impact Risk	2 4 8	Assistant Director, Colchester Commercial
Income targets set out in the Business Plan are not achieved.	Robust business plans in place with realistic achievable income targets. Business plans and income streams closely monitored against milestones with significant variations being highlighted early to Colchester Commercial and the Council.	Likelihood Impact Risk	2 4 8	Subsidiary Board Directors

<p>Change and upheaval can, if not managed properly, impact on the quality of service delivery during a period of transition and establishment.</p>	<p>The level of resources required is identified in the Business Plan.</p> <p>The Council shall provide sufficient resources to the Holding Company to support it until such time it is established as a new entity.</p>	<p>Likelihood Impact Risk</p>	<p>1 4 4</p>	<p>Managing Director, Colchester Commercial</p>
<p>Not maintaining the services currently offered by the Council could lead to reputational damage for the Council.</p>	<p>The Holding Company will enter into a Services Agreement with the Council which will set out the minimum requirements for service delivery.</p> <p>The Strategic Director, Policy and Place shall oversee the performance of this agreement and report, where necessary, concerns to the Trading Board and make recommendations as to the course of action that is required.</p>	<p>Likelihood Impact Risk</p>	<p>1 3 3</p>	<p>Strategic Director, Policy and Place</p>