

Local Plan Committee

Thursday, 27 February 2020

Attendees: Councillor Tina Bourne, Councillor Andrew Ellis, Councillor Patricia Moore, Councillor Lee Scordis

Substitutes: Councillor Paul Dundas (for Councillor Lewis Barber), Councillor Sam McCarthy (for Councillor Nick Barlow), Councillor Martin Goss (for Councillor Phil Coleman), Councillor Dennis Willetts (for Councillor Chris Hayter), Councillor Gerard Oxford (for Councillor Beverley Oxford)

Also Present:

188 Have Your Say!

David Cooper, on behalf of Stop350, addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He sought clarification on the status of the emerging Local Plan, his understanding being that only Section 1 of which was the subject of an examination by the Planning Inspector. However, he referred to a reference to the need for Section 2 of the Plan to be reviewed due to the period of time which had elapsed since the Plan's submission for examination. He also referred to legal advice submitted to a recent meeting of the Planning Committee indicating that both Sections of the Plan were the subject of examination and, as such, weight could be given to both Sections 1 and 2 when considering the planning applications at Brierley Paddocks, West Mersea. He considered this site, which had been allocated in Section 2 of the Plan, was still the subject of outstanding objections whilst he was also aware that an application had been submitted in respect of the second allocated site on West Mersea, which was also the subject of outstanding objections. He asked how the objections to sites in Section 2 of the emerging Local Plan could be considered.

Ian Vipond, Executive Director, confirmed that both Section 1 and 2, which together made up the emerging Local Plan, had been submitted for examination and, as such, both Sections also carried weight. He also confirmed that the examination of Section 2 of the Plan had not yet commenced.

Sir Bob Russell addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He referred to matter which he raised at the previous meeting of the Committee, the Ministry of Defence (MoD) land at Middlewick, which had been placed on the market for sale by the MoD. He welcomed the reduction in the number of houses allocated for the site from 2,000 to 1,000, acknowledged that it was inevitable that development would take place on the site and was of the view that

agreement needed to be reached as to where on the site the development should take place. He was of the view that the housing development needed to be located south of the firing butts to enable the area between Abbots Road and the firing butts to be designated as a country park. He considered this to be of visual benefit and would avoid the urban coalescence of Old Heath, Barn hall and Monkwick.

The Chairman confirmed that the Local Plan Committee had approved the Local Plan for submission for examination, not the Council itself, he acknowledged that the future development of the site would take place in the future and confirmed that negotiations would continue with the MoD regarding the detail of the development.

William Joliffe addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He sought clarification regarding the vacation of the land at Middlewick by the MoD and whether a land sale had yet been completed. He opposed the development of the site and considered arrangements should be made for the public to state their views on the proposals. He also referred to Climate Change and Global Warming and the potential involvement of school children to help prevent the development of the site.

The Chairman confirmed that the land had not yet been sold but he gave an assurance that ward councillors would notify residents when this situation changed. Sandra Scott, Place Strategy Manager, confirmed that the last published date for disposal was 2021 and the Executive Director confirmed that Climate Change was a matter being considered in relation to any work undertaken by the Council whilst the Council's recent declaration of a Climate Emergency meant that policies would be adapted accordingly. He explained that any impact would need to be assessed as issues came forward, as such, it would be essential that the correct policies were in place to enable these assessments to adequately address the necessary issues. He also explained that the Council had a duty to deliver a defined level of housing and employment each year, against which other considerations needed to be balanced.

Nick Chilvers addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He asked about the employment opportunities for future residents of Middlewick and referred to the difficulty of travelling from the south of the town, citing problems with Mersea Road, Brook Street, Abbots Road, Old Heath Road, Whitehall Road and Haven Road and the considerable distance from the site to the A12. He considered robust road infrastructure improvements needed to be introduced, including a southern circular route to link with the A133 to avoid the Hythe and the town centre. He acknowledged that the development of the site was inevitable, but he considered the development needed to be sustainable and questioned whether traffic and transport assessments and job creation plans had been commenced and whether such evidence would need to be submitted to the Planning Inspector for consideration. He referred to unsuccessful housing developments elsewhere in the country which had been built on the outskirts of towns without adequate connectivity and he asked for greater

engagement with the community.

Sandra Scott, Place Strategy Manager confirmed that significant work had been undertaken and was continuing to justify the proposed allocation at Middlewick, including transport assessment work and this would form part of the evidence base to support the Local Plan. The policy requirement to address sustainability and mitigation issues would be made publicly available, would form part of the master planning for the area and would provide opportunities for community engagement.

The Executive Director acknowledged the comments regarding sustainable development and confirmed that the MoD would be encouraged to bring forward proposals which would accord with sustainability requirements which would then be the subject of public assessment.

189 Local Plan Committee Minutes 16 December 2019

The minutes of the meeting held on 16 December 2019 were confirmed as a correct record, subject to the comment made by Councillor Ellis in paragraph 5 of minute number 185 referring to £355 million infrastructure funding gap being amended to £335 million infrastructure funding gap.

Councillor Ellis asked whether any progress had been made regarding consultation with ward councillors and community members on proposed developments and their associated Section 106 Agreements.

The Place Strategy Manager confirmed that she wasn't in a position to confirm the current situation but would arrange for details of progress on Section 106 consultations to be provided to the Committee members outside of the meeting.

190 Local Plan Update

William Sunnocks addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He considered the meeting was important in terms of the Committee's response to the information which would be contained in the examination inspector's letter. He considered the Committee's report was a reiteration of the potential difficulties should the Garden Communities not receive approval from the Inspector. He proposed more collaborative working to collectively determine an agreed response. He cited the need to retain the existing Local Plan because of the requirement for housing numbers to be re-assessed in accordance with the provisions of the current formula and he considered officers' ingenuity and experience needed to be used to suggest ways in which the Plan could be revised without it being entirely dispensed with. He considered various options would be possible with a positive approach, such as the removal of Section 1 or the transfer of some elements of Section 1 into Section 2. He was also of

the view that it would be a mistake to continue with Section 1 of the Plan first, rather that Section 2 should be implemented as soon as possible. He considered that the control of the land for the Garden Communities needed to be secured before decisions were made on allocation and that the principle of acquisition of land by Compulsory Purchase Order was not a viable option on such a large scale.

Councillor Luxford Vaughan attended and, with the consent of the Chairman, addressed the Committee. She considered the report to be an explanation of process rather than an actual Plan B which was what had been anticipated when the Motion had been approved at the Council meeting in October 2019. She considered an appropriate Plan B would be to follow the Option 1 outlined in the Planning Inspector's letter, together with the advice of the Inspector to make amendments to Sections 1 and 2 of the emerging Local Plan. She asked whether this opportunity was still open to the Council and for clarification to be sought from the Inspector on this point. She referred to the comments of the Inspector at the examination relating to the Council's housing target and the additional capacity which had been built in to the Council's housing numbers which she had noted exactly corresponded with the total number of houses allocated in the Garden Community projects. She sought clarification regarding the basis for the additional capacity in housing numbers, bearing in mind that, in her view, the Council had over-delivered on its housing targets over the past five years by 130%. She questioned why no opportunity had been given to Councillors to determine whether it was appropriate to apply additional capacity within the housing numbers and speculated that this approach would not have been supported by Committee members. She questioned the need to undertake a review of the Sustainability Appraisal unless it was likely to be found to be unsound and she referred to the status of Adopted Neighbourhood Plans and questioned the ability of the Council to disregard the policies contained within such plans. She referred to affordable housing and considered it was not acceptable for the Supplementary Planning Document relating to the Garden Community projects to permit the delivery of fewer affordable rented dwellings than other developments in the Borough.

Councillor Fox, Portfolio Holder for Housing, attended and, with the consent of the Chairman, addressed the Committee. He referred to the need for more affordable housing in Colchester, the housing crisis in Colchester and the need to achieve the successful development of a sound Local Plan to address this problem. He considered the need for more affordable housing had cross party support from Councillors and that the delivery of a significant proportion of such housing through Section 106 contributions needed to be continued. He was of the view that this housing needed to be in the right locations, supported by community infrastructure and that the Council's Local Plan approach would ensure this was successful. He did not consider the Borough to be as vulnerable as others to 'planning by appeal' which would not deliver all the requirements of sustainable development, at the expense of affordable housing, in remote locations, distant from supporting infrastructure and not suitable to vulnerable residents needing health care, social care support and public transport. He acknowledged that market

forces would deliver homes but, in his view, this needed to be regulated through the policies contained in the Local Plan. He confirmed that the emerging Local Plan increased the percentage of affordable homes being sought from new developments to 30%, levels which has already been achieved at sites in Chitts Hill and Great Horkesley. He referred to the site at Middlewick and the aspiration of the Government to secure £5b from the sale of land but he was concerned about reports that only 2.6% of houses on such sites were in the social rented sector. He welcomed comments about the need for social infrastructure to support development in the Middlewick area and confirmed that these issues had been raised by councillors when the Local Plan was being drawn up. He acknowledged the work of the officers dealing with the complexities of the Local plan process and in setting out the current position on the emerging Local Plan for the Committee members. He considered that Colchester, Braintree, Tendring and Essex Councils had made a brave choice to adopt the Garden Community project approach which was the best opportunity to deliver infrastructure needed first. His view was that no further action should be taken in relation to a Plan B option until the response from the Inspector was received as this would involve the whole process being restarted.

Councillor J. Young, Portfolio Holder for Culture and Performance, attended and, with the consent of the Chairman, addressed the Committee. She commended the hard work of the planning officers in preparing the Local Plan. She explained that a response from the Inspector in relation to the soundness of the Local Plan would soon be received which would provide clarity needed by the Council. She was of the view that, should Section 1 of the Plan be found unsound, the work on Section 2 would become the Council's Plan B. She considered it to be in everyone's interest for the emerging Local Plan to be adopted as soon as possible to ensure that the Council's housing target could be kept as low as possible. She also advocated the Council's current approach as the best opportunity to deliver infrastructure-led development and affordable housing. She considered that likely consequences of a new Local Plan being started would be the development of land bordering the Borough, without infrastructure; other areas of the Borough needing to accept greater housing numbers and Neighbourhood Plans being undermined. She confirmed that arrangements would be made for a member briefing on the contents of the Inspector's letter so that clarity on housing numbers could be given and she commended adhering to the existing Local Plan.

The Committee considered a report by the Assistant Director Place and Client Services providing an update on the Local Plan examination and setting out possible outcomes, alternative proposals and the implications for other parts of the service.

Ian Vipond, Executive Director, made a presentation to the Committee outlining the progress of the Section 1 examination process; the three possible outcomes of the Inspector's letter; the requirements necessary for Section 2 of the Local Plan to proceed to examination; the requirements and implications of a new Plan option and envisaged timescales for the adoption of the current emerging Local Plan.

Councillor Willetts referred to the approved Motion from the Council meeting in October 2019 Officers which provided for the development of a contingency Plan B to the current proposals in Section 1 of the emerging Local Plan, for submission to the Local Plan Committee within one month of the completion of the Section 1 public hearing and asked about procedural issues associated with that Motion. Whilst he acknowledged views expressed not in support of the formation of a Plan B, he considered the views expressed by the Council was an instruction which the Committee was required to comply with. He further considered that the report presented to the Committee had not fully addressed the instruction given by the Council. He was of the view that it would not be difficult for a series of potential scenarios to be identified of what might happen and how such scenarios could be dealt with. He questioned the rationale behind the timescales identified in the report, being of the view that the production of a Plan B would take less time to complete than having to undertake a full review of the Local Plan in its entirety. He was of the view that the report demonstrated an unwillingness to embrace the concept of a Plan B, particularly given the indicative timescales associated with an alternative plan. He commented on the Council's reputation for its risk analysis work and contingency planning in relation to its business processing and he considered the Local Plan should be subject to the same rigorous risk assessment. He was strongly of the view that consideration needed to be given to the range of options available to produce a Colchester only Local Plan, not relying so heavily on the Garden Community principles.

The Chairman was of the view that the report presented to the Committee clearly demonstrated a framework for progress with the Local Plan and he cautioned against comments implying unwillingness to consider other options on the part of officers.

Councillor Willetts confirmed he had no intention to criticise officers but to express his concern that no Plan B had yet been identified.

Councillor Goss was of the view that the Local Plan framework was highly complex and resource intense and it was unrealistic to expect an alternative Plan to be formulated at short notice and the risk of moving to a new Local Plan were that it would have to comply with the provisions of the latest National Planning Policy Framework (NPPF) and its associated increase in housing numbers for Colchester from 920 to 1086 per year.

Councillor Dundas commented on the three likely wide-ranging outcomes from the Inspector's letter, as identified in the report and he acknowledged that the potential for modifications to be required could cover a multitude of scenarios. He had hoped to see identified a degree of planning and options for different scenarios, such as, in the scenario that one of the proposed Garden Communities was required to be removed from the Plan, what would be the Council's relationship with the partner Authority. He considered that the report was recommending that no action be taken currently, and he questioned the validity of that approach, should it be approved by this Committee, given the unanimous approval of a Motion by the Council that a Plan B be presented to the

Committee. He sought clarification regarding the timescale for the likely publication of the Inspector's letter, given the commencement of the pre-election period towards the end of March 2020. He commented on the need for everyone to accept that the outcome from the Inspector would need to be respected, despite individual opinions. He stated his view, that if the Plan was found to be unsound, then those Councillors who had supported it would need to be prepared to take responsibility for the associated increase in housing numbers and the additional cost of developing a new Plan.

The Executive Director confirmed that representations were being accepted by the Inspector until 11 March 2020, as such, the publication of a letter was unlikely before the end of March 2020 at the earliest. He was of the view that the publication of the letter would not be delayed as a consequence of one Local Authority being subject to local elections. He confirmed his willingness to provide a member briefing for the Committee after the letter was received, not for decision-making purposes but to understand the issues raised in the letter. He was of the view that the Inspector would either rule out Section 1 or that the Inspector would accept Section 1 with modifications.

Councillor Ellis was also of the view that the report had not identified a Plan B and acknowledged that it would not have been realistic to expect the production of a complete alternative Plan. However, he was also concerned that no scenario planning had been undertaken, such as the potential options in the event that the Plan may be considered unsound. He confirmed his willingness to put in the time and commitment that would be required to shorten the timescales envisaged. He recollected the Executive Director previously verbally outlining what he considered a Plan B might comprise and he asked that the Executive Director provide a reminder of that scenario for the benefit of the Committee. He was of the view that, if Section 1 was found to be unsound, it would be on the basis of the Garden Community element and he was concerned that the views of some members of the Committee, to defer consideration of Garden Community projects to later in the life of the Plan had not been supported previously. He also acknowledged the potential for the Inspector to accept Section 1 of the Plan with one Garden Community project only and asked what impact this scenario would have on the relationship with each of the partnership authorities; on the link road proposals; the State Aid complaint; the affordable housing elements of the projects and the associated affordable housing ratios applied to the projects. He referred to the First Homes consultation document issued by the Government, the deadline for comments for which was April, and questioned why details of its contents had not been submitted to the Committee for consideration, given the important impact it may have on the Council's affordable housing provision. He was of the view that it would have been a very useful exercise for the Committee members to give consideration to the various options available in the context of the various scenarios which may come to fruition as a consequence of the Inspector's letter. He was of the view that the Committee should have been involved some time ago in the determination of housing numbers and additional capacity and, as such, a different view may have been agreed by the Committee. He was particularly concerned that a buffer of 16% had been referred to at

the examination hearing but this level of over-capacity had not been subject to consideration by the Committee. He asked for clarification on the current housing numbers for Colchester in the current year. He also sought clarification, should the Inspector find the Plan unsound, on whether there would be any scope to proceed with Section 2, subject to housing numbers being reviewed. He also referred to the need for a different perspective to be considered if there was a need to commence a new Plan from the beginning, in relation to the Council's recent Declaration of a Climate Emergency, such as in relation to transport modes, the encouragement of walking and cycling and building at higher density.

The Executive Director acknowledged the need to take into account Climate Change and for this to be applied to the work which had already been completed and he explained that climate change was one of the elements, along with greater housing numbers' associated with the new NPPF. As such, any change in strategy would bring with it a fundamental change in the scenario for the Borough and work would need to be undertaken to test a range of strategies to determine what would need to be applied. He explained that what was intended in terms of the flexibility in numbers was to progress the Plan at a much faster rate than had subsequently been the case. Earlier in the Local Plan process it hadn't been considered that there was a surplus in numbers and he explained that most of the surplus had been generated by the neighbouring Authorities through the appeal process. He further explained that Colchester's additional housing numbers had been as a result of bringing forward of developments in Section 2 in order to meet the five-year land supply requirement, which was judged on the new NPPF. He was willing to provide Councillors at forthcoming briefing sessions with an update on the housing numbers for the current year although he cautioned that, in reality, it was difficult to accurately count actual housing completions which were informed from Building Control returns. He acknowledged significant future issues in relation to affordable housing and explained that the challenge was to identify what mechanism would provide the best approach to deliver affordable housing. He explained that the First Homes consultation would usually be responded to by the Portfolio Holder but was of the view that the inclusion of the views of the Committee members may be possible to achieve. He explained that the emphasis of the consultation document was home ownership as the current Government's favoured tenure with no acknowledgement that an element of social housing would need to be delivered alongside this, as such, the contents of the document would have a significant impact on the funds available to provide affordable housing for those on lower household incomes. It was anticipated that the Garden Community projects may provide an ability to determine what affordable housing was delivered in the future. He explained that all Local Plans, if considered to be sound, would be subject to some form of modification but he cautioned that the Inspector's conclusions were likely to include matters which could be subject to interpretation or further clarification which could be addressed by means of a briefing for Committee members after the letter was published. He was of the view that, in the context of a formal Local Plan Committee meeting, it would be inappropriate for discussion to take place on various potential scenarios, including speculation about future relationships

with partner authorities, whilst he considered such discussions more appropriate in the context of briefings and workshops for Committee members.

Councillor G. Oxford referred to the Council's Local Plan process duty to co-operate and how this would be achieved in the context of comments suggesting the adoption of a Colchester only approach to the Local Plan. He voiced concerns about the ability of less affluent members of the community to access affordable housing, the reduction in council housing stock as a consequence of Right to Buy and that council housing was the only affordable option for many. He was particularly concerned about the provision of infrastructure and, in his view, the best opportunity to secure infrastructure and to manage the sales from the development was by means of the Garden Community projects and he advocated continuing this approach to the Local Plan.

Councillor Moore referred to a comment by a member of the public regarding the planning application at Brierley Paddocks, West Mersea and questioned the advice given to the Planning Committee members that Section 2 of the emerging Local Plan could be given considerable weight in determining the application. She considered this to be a significant anomaly given there was imminent potential that the Local Plan could be found unsound. She asked for clarification regarding the Council's relationship with North Essex Garden Communities Ltd (NEGC) should Section 1 of the Local Plan be found wholly or partly unsound and whether Option 1, to pause Section 1 and proceed with Section 2 of the Local Plan, as set out in the Inspector's original letter, was still available to the Council. She was also strongly of the view that the Council needed to formulate a Plan B so that there was an agreed contingency plan in place which could be enacted quickly should the Inspector's view be that the emerging Local Plan was unsound.

The Executive Director explained that, in planning terms, Section 2 of the Local Plan did carry a considerable degree of weight due to its status as a submitted document to the Secretary of State, whilst accepting that, in a short space of time, its status could be demoted. He also confirmed that the advice given to a Planning Committee at the time of the determination of an application had to be correct at that moment in time. He confirmed that the Council had a duty of co-operation with its neighbours and, whilst acknowledging there was no duty to agree, because Braintree and Tendring were the Council's main neighbours then joint discussions would have to continue whether or not the Garden Community projects were proceeded with. He was also of the view that, the duty of co-operation was such that, if a Local Plan was subject to an objection from a neighbouring Local Authority it would not be seen in a positive light by an Inspector. He explained that the purpose of NEGC was to deliver Garden Communities, as such, if the Garden Community project wasn't proceeded with, it would have no purpose. He considered that the Inspector's Option 1 was no longer available to the Council and he did not recommend asking the Inspector to clarify this point. He was, however, of the view that, the Council would want to explore proceeding with Section 2 of the Plan, should the Inspector find Section 1 unsound. He further explained that he did not

consider that to be a likely scenario, whilst acknowledging it was not a matter which had proved easy to predict in the past. He also confirmed that the Inspector had confirmed that his intention was to issue his letter as quickly as possible and that he was unlikely to suggest significant work or evidence to make the Plan sound.

Councillor Goss acknowledged that there were risks associated with the approach to the Local Plan process but that this was dependent on the outcome of the Inspector's letter; he referred to the complexity of the planning process; he did not support the view to restart the Local Plan process entirely, on the grounds that the housing numbers would increase, and he was of the view that the Committee should proceed with the emerging Local Plan, as submitted, so that the examination process could be concluded.

Councillor Ellis was of the view that potential scenario planning should be prepared for consideration by the Committee members at a briefing session, on the grounds that some contingency planning would be beneficial to the Committee at an early opportunity, prior to the publication of the Inspector's letter. He was also of the view that this would go some way to complying with the wishes of the Council meeting in October 2019.

RESOLVED (FIVE voted FOR and FOUR voted AGAINST) that the Local Plan, as submitted, be proceeded with in order to conclude the examination process.