

**Extract from the draft minutes of the Cabinet meeting of 17 November 2021**

**605. Establishment of a Joint Committee for Tendring Colchester Borders Garden Community**

The Monitoring Officer submitted a report a copy of which had been circulated to each Member.

Councillor Warnes attended and with the consent of the Chair addressed Cabinet to express concerns that the Joint Committee would combine both executive and non-executive powers. This would mean that the same members would take decisions on major strategic and policy decisions, and decisions on individual planning applications. Whilst the concerns on this issue may be allayed by the DPD, this was contrary to the separation of functions in the Council's constitution. It would be preferable if the composition of the Joint Committee was flexible and could change on the basis of competencies. Concern was also expressed that by establishing the Joint Committee the Council was giving up powers to solely determine planning applications in that part of the borough included in the Garden Community.

Councillor G. Oxford attended and with the consent of the Chair addressed the Cabinet to stress his view that it was important that the Council was a member of the Joint Committee, as it could not influence matters if it was not involved.

A statement from Councillor Cory was read to the Cabinet suggesting that wider representation should be sought on the proposed future Joint Committee. Five members from each authority would allow greater diversity of contribution and more democratic input. The Essex County Council membership of the Committee, if widened to five, could include local division members. The Leader's ongoing discussions with Essex and Tendring on this issue were supported.

Councillor Goacher attended and with the consent of the Chair addressed the Cabinet to express his concern about the breadth of representation on the Joint Committee. The Council was effectively concentrating power in three representatives. In addition all three authorities were led by the same political group and therefore the Joint Committee was likely to be dominated by views representing a narrow element of the political spectrum. Tendering and Essex could outvote

Colchester on the Committee so there was a danger that the Council was ceding influence.

Councillor J. Young attended and with the consent of the Chair addressed the Cabinet to highlight that the part of the borough that most directly affected by the Garden Community development was Greenstead. This was also the most deprived ward in the borough. Residents of Greenstead would expect that their representatives would be at the heart of the development and for their issues to be heard. A ward councillor from Greenstead should be one of the Council's representatives on the Joint Committee. Concerns were also expressed about the Council giving up some of its powers and the possibility of the Council being outvoted on the Joint Committee.

Councillor Barber attended and with the consent of the Chair addressed the Cabinet and stressed the importance of the proposed constitutional changes being suitable for the long term. It was reassuring that the decisions would be taken by Full Council where each member had a vote, and that Full Council could in future change the arrangements if they were no longer suitable. The complexity of the Garden Community Project was also stressed. It was important that ward councillors understood this and did the necessary research to work to bring themselves up to speed on the project.

Councillor Dundas, Leader of the Council and Portfolio Holder for Strategy, introduced the report and responded to the comments made. It was accepted that following the Inspector's conclusions and the adoption of the Local Plan that development would happen on the site and there was a responsibility on the Council to ensure that the development was the best it could be.

It was stressed that at least 90% of the Garden Community site and nearly all the proposed development was within Tendring. Those parts of the borough included were largely buffer zones and it was unlikely that any development in Colchester would come forward in this plan period, as development would be built out from the centre of the Garden Community. Colchester was not ceding influence but was gaining it as it would be able to influence applications which would otherwise fall to Tendring to determine. He was continuing to raise the issue of numbers on the Joint Committee with Essex and Tendring. Tendring's administration was a coalition of seven groups, rather than a Conservative administration. If the Joint Committee was genuinely politically balanced it would be too unwieldy to be effective. A number of representations had been made about the make-up of the Council's representatives on the Joint Committee and these would be considered. It was noted that Essex County Council would also have three representatives and there may be scope to

discuss with them the possibility of twin hatted councillors being appointed to maximise Colchester representation.

The Joint Committee was an opportunity to gain influence over the nature of the development and if this was not taken, it may be a source of regret in the future. However, this was an ongoing process and matters could change in the future and the need for the Joint Committee to be reviewed over time was important. It was therefore proposed that the following additional wording be added to the resolution:-

“As with any new governance arrangements, including the terms of reference, they can be reviewed over time.”

*RESOLVED* that:-

- (a) It be agreed that a joint Development Plan Document be prepared with Tendring District Council and that that a Joint Committee be established with Tendring District Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community;
- (b) It be agreed that all three Councils should be represented on the appointed Joint Committee with full voting rights;
- (c) Executive functions in relation to the preparation of the joint Development Plan Document are delegated to be discharged by the appointed Joint Committee in accordance with Sections 101(5) and 102(1)(b) of the Local Government Act 1972;
- (d) It be agreed that each Council should be represented on the appointed Joint Committee with 3 members under Section 102(2) of the Local Government Act 1972, one of which will be a member of the Cabinet, appointed by the Leader;
- (e) It be agreed that the Terms of Reference for the Joint Committee, as set out in Appendix A for recommendation onto Full Council in respect of non-executive functions;
- (f) Support to the Leader to delegate further executive functions to the Tendring Colchester Borders Garden Community Joint Committee, in consultation with the Monitoring and Section 151 Officers, be endorsed;

(g) Authority be delegated to the Assistant Director Place and Client Services, in consultation with the Leader and Portfolio Holder for Resources to enter into a partnership agreement between the Councils, if deemed necessary to support the operation of the Joint Committee and the Tendring Colchester Borders Garden Community project;

(h) As with any new governance arrangements, including the terms of reference, they can be reviewed over time.

*RECOMMENDED TO COUNCIL that:-*

(i) A Tendring Colchester Borders Garden Community Joint Committee is appointed for the discharge of executive and non-executive functions related to Tendring Colchester Borders Garden Community, pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 on the terms of reference attached at Appendix A to the Monitoring Officer's report and that the Council's membership be agreed by the Leader;

(ii) The Council enters into an agreement with Tendring District Council under section 28 of the Planning and Compulsory Purchase Act 2004 in relation to the preparation of a joint Development Plan Document in relation to Tendring Colchester Borders Garden Community;

(iii) Part 3 – Responsibility of Functions of the Constitution be amended to include the Terms of Reference of the Joint Committee; and

(iv) The Terms of Reference of the Local Plan Committee be amended as set out in Appendix B of the Monitoring Officer's report and that the Constitution be amended accordingly.

*REASONS*

To ensure appropriate governance and decision making arrangements are in place between the partner Council's in relation to Tendring Colchester Borders Garden Community.

*ALTERNATIVE OPTIONS*

The arrangements, for both plan making (planning policy) and development control purposes (determination of planning applications), to be considered are:

Joint Committees established under Section 101 Local Government Act 1972  
(Cabinet and Council resolutions only):

1. DPD functions;  
Membership: Both Borough/District Councils with collective voting
2. Development Control functions;  
Membership: Both District/Borough Councils with collective voting
3. Option 2 plus County Council  
Membership: All three Councils with collective voting
4. DPD and Development Control functions:  
Membership: Both Borough/District Councils with collective voting
5. DPD and Development Control functions:  
Membership: Both Borough/District Councils with collective voting  
Essex Council advisory non-voting membership
6. DPD and Development Control functions:  
Membership: All three Councils with collective voting (but not extensive powers of Section 29 joint committee)

Joint Committees established under Section 29 Planning and Compulsory Purchase Act 2004 (Secretary of State approval required):

7. DPD functions  
Membership: All three Councils with collective voting
8. DPD and Development Control collective voting  
Membership: All three Councils with collective voting

Status Quo:

9. Existing Committees within Tendring and Colchester Councils each retaining DPD functions, for approval by both Councils and determination of planning applications under current rules.

Due to the timetable for production of joint DPD and HIF housing delivery deadlines, it is considered that seeking Secretary of State approval for a Joint Committee with the County Council will cause unnecessary delay which may prevent the establishment of the Joint Committee prior to decisions being required.

The Monitoring Officer's report recommended Option 6 as the proposed model for the establishment of the Joint Committee for TCBGC.