

**23 March 2023**

<b>Report of</b>	<b>Executive Director, Place</b>	<b>Author</b>	<b>Lindsay Barker</b>
			<b>☎ 507435</b>
<b>Title</b>	<b>Tendring Colchester Borders Garden Community – Submission Version of the Development Plan Document – Regulation 19</b>		
<b>Wards affected</b>	Not applicable		

## 1. Executive Summary

- 1.1 The Tendring and Colchester Borders Garden Community Joint Committee (“the Joint Committee”), at its meeting held on 27 February 2023, considered a comprehensive report (and appendices) which sought the Joint Committee’s recommendations to both Colchester City Council and Tendring District Council. The recommendations were that the Submission Version of the Development Plan Document (DPD) for the Garden Community be approved for public consultation purposes and that thereafter the DPD be submitted to the Secretary of State in order to commence the independent examination process.
- 1.2 In addition, on 24 February 2023, a Memorandum of Understanding was signed by Essex County Council, Colchester City Council, Tendring District Council and Latimer (Tendring Colchester Borders Garden Community) Development Limited in order to govern the relationship, collaboration and co-operation of the aforementioned Parties in relation to the delivery of the A120-A133 Link Road to support the development of the Tendring Colchester Borders Garden Community.

## 2. Recommended Decision

- 2.1 That Full Council, having taken into account the information contained in this report and appendices in making its decision on the Submission Version of the Development Plan Document, associated Sustainability Appraisal and other related evidence, in particular the decision made the Tendring and Colchester Borders Garden Community Joint Committee at its meeting held on 27 February 2023, resolves that –
  - (a) the Submission Version of the Plan for the Tendring Colchester Borders Garden Community (otherwise known as the ‘Development Plan Document’ or DPD) (Appendix 1) and associated Sustainability Appraisal (Appendix 2) along with the Strategic Masterplan and other related evidence listed as background documents which together address the legal requirements of the planning system and the tests of soundness set out in the National Planning Policy Framework, having regard to the comments received in response to the 2022 Regulation 18 public consultation exercise, be published for six weeks’ public consultation in line with Regulation 19 of the Town and Country Planning (Local Planning) (England) regulations 2012 (as amended) and Regulation 13 of the Environmental Assessment of Plans and Programme Regulations and thereafter submitted to the Secretary of State in line with Regulation 21 of the Town and Country Planning (Local Planning) (England) regulations 2012 to begin the process of independent examination;
  - (b) the Garden Community Planning Manager, in consultation with Tendring District Council’s Director of Planning, Colchester City Council’s Executive Director of Place and the Chairman and the Vice-Chairman of the Tendring Colchester Borders Garden

Community Joint Committee, be authorised to make any minor editorial changes to the text and maps in the Submission Version of the DPD and to make necessary updates and additions to the evidence base ahead of their publication for public consultation;

- (c) welcomes the completion of a Memorandum of Understanding which is intended to govern the relationship, collaboration and co-operation between the Councils and Latimer in relation to the delivery of both phases, at the earliest opportunity, of the A120-A133 Link Road which will support the development of the Garden Community; and
- (d) endorses the recommendation that Officers from the Councils work with Latimer to explore the possibility of entering into an agreement which would detail how the parties would work collaboratively for the duration of the project, delivering the vision for the future of the garden community.

### **3. Background**

- 3.1 Full Council is requested to consider the recommendations submitted to it by the Joint Committee.
- 3.2 The Director (Planning)'s Report and accompanying Appendices which were considered by the Joint Committee at its meeting held on 27 February 2023 are attached as Appendices to this report.
- 3.3 The Joint Committee's decision on this matter was: -

*"That the Tendring Colchester Borders Garden Community Joint Committee –*

- 1) notes the content of this report which presents the Submission Version of the Plan for the Tendring Colchester Borders Garden Community (otherwise known as the 'Development Plan Document' or DPD) (Appendix 1) and associated Sustainability Appraisal (Appendix 2) along with the Strategic Masterplan and other related evidence listed as background documents which together address the legal requirements of the planning system and the tests of soundness set out in the National Planning Policy Framework, having regard to the comments received in response to the 2022 Regulation 18 public consultation exercise;*
- 2) recommends to the Full Council of both Tendring District Council and Colchester City Council that they agree for the above-mentioned Submission Version of the Plan, associated Sustainability Appraisal and other related evidence be published for six-weeks' public consultation in line with Regulation 19 of the Town and Country Planning (Local Planning) (England) regulations 2012 (as amended) and Regulation 13 of the Environmental Assessment of Plans and Programme Regulations and thereafter submitted to the Secretary of State in line with Regulation 21 of the Town and Country Planning (Local Planning) (England) regulations 2012 to begin the process of independent examination;*
- 3) that Full Council authority is sought for the Garden Community Planning Manager, in consultation with the TDC Director of Planning, the CCC Executive Director of Place and the Chairman and Vice-Chairman of the Tendring Colchester Borders Garden Community Joint Committee, to be given delegated authority to make any minor editorial changes to the text and maps in the Submission Version of the DPD and to make necessary updates and additions to the evidence base ahead of their publication for public consultation;*
- 4) notes the proposed activity for the Regulation 19 'Submission Version Plan' consultation;*

*5) notes the representations received following the cancellation of the Joint Committee meeting of the 13<sup>th</sup> December 2022;*

*6) welcomes the completion of a Memorandum of Understanding which is intended to govern the relationship, collaboration and co-operation between the Councils and Latimer in relation to the delivery of both phases, at the earliest opportunity, of the A120-A133 Link Road which will support the development of the Garden Community; and*

*7) recommends that officers from the Councils work with Latimer to explore the possibility of entering into an agreement which would detail how the parties would work collaboratively for the duration of the project, delivering the vision for the future of the garden community.”*

#### **4. Joint Advice of Colchester City Council and Tendring District Council’s Monitoring Officers**

- 4.1 The recommendations from the Joint Committee being presented to the Full Councils at Colchester and Tendring, are with the intention of seeking decisions being taken by the Full Councils prior to the upcoming Local Elections, to enable the Regulation 19 consultations to commence shortly thereafter. A delay in determination until after the election period is likely to pose a high risk to the timetable for the overall Garden Community project and the delivery of the first phase of homes and associated infrastructure in accordance with the Housing Infrastructure Funding agreement with Homes England (subject to variation).
- 4.2 Section 1 Local Plan requires that planning permissions are not to be granted until the DPD has been completed and adopted, a delay to its adoption would have a knock-on effect to delivery on the ground. If agreed, the proposal is to consult on the DPD for six weeks later in 2023 following the Local Elections. The updated version of the Local Development Scheme (LDS) recommends a new timetable for the DPD. This takes into account the need to consult for a period of six weeks on the DPD and charts a realistic timetable for independent Government Examination in Autumn/Winter 2023, with adoption of the DPD anticipated early in 2024.
- 4.3 Due to Pre-election Periods and post elections administration to form Councils, it is unlikely that decisions could be made by the Joint Committee until June/July 2023 and Full Councils in September. However, Officers would not be presenting the Submission Version Plan for consideration and public consultation if it did not meet the tests of soundness, based on evidence and taking into account the outcome previous stakeholder engagement under Regulation 18, and supported by a Sustainability Appraisal. Summary of the Regulation 18 consultation is included within the report to the Joint Committee highlighting the three main issues related to Green Buffers and Land South of the A133, Salary Brook and Crockleford Heath and Bromley Road. Technical evidence has been completed and changes incorporated into the Submission Version Plan on all three of these key issues.
- 4.4 It is important to remember that this stage of the process is plan making, setting policy direction and not the determination of planning applications, which will follow once the DPD is adopted as required by Section 1 of the Local Plans. There will be detailed s.106 planning agreements negotiated and in place, prior to planning permissions being granted. There may be details which members would wish to seek further assurances on, which relate to the later stages of the process, including planning obligations, commitments and delivery.

- 4.5 Essex County Council entered into a formal contract (Grant Determination Agreement) with Homes England for the Housing Infrastructure Fund (HIF). Colchester City Council and Tendring District Council signed a Memorandum of Understanding setting out how they will work together with Essex County Council towards their intended objective of unlocking development at Tendring Colchester Borders Garden Community (TCBGC). This included demonstrating the Local Planning Authorities' agreement with the content of the Housing Delivery Statement and the Recovery and Recycling Strategy. Paragraph 2.3 is relevant for the purpose of this report, which states:

*“The Parties will work together to ensure that TCBGC’s dependence on the HIF infrastructure is effectively and comprehensively articulated where evidence is available to demonstrate that dependence including through the preparation of Development Plan Documents, Supplementary Planning Documents, and other relevant documents.”*

Therefore, Members should reflect the importance of the HIF for delivery of the Garden Community and do not seek, unnecessarily to put this funding at risk through its decision-making.

- 4.6 In setting up the Joint Committee, Colchester City Council, Tendring District Council, and Essex County Council delegated certain functions, for the purpose of this report, to exercise the Council’s respective functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:

- (a) is in accordance with the Local Development Schemes;
- (b) includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;
- (c) meets the “tests of soundness” as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
- (d) has regard to the adopted Section 1 of Colchester City Council and Tendring District Council’s Local Plan;

- 4.7 The recommendations from the Joint Committee being presented to the Full Councils at Colchester and Tendring, are with the intention of seeking decisions being taken by the Full Councils prior to the upcoming Local Elections, to enable the Regulation 19 consultations to commence shortly thereafter. A delay in determination until after the election period is likely to pose a high risk to the timetable for the overall Garden Community project and the delivery of the first phase of homes and associated infrastructure in accordance with the Housing Infrastructure Funding agreement with Homes England (subject to variation).

- 4.8 Section 1 Local Plan requires that planning permissions are not to be granted until the DPD has been completed and adopted, a delay to its adoption would have a knock-on effect to delivery on the ground. If agreed, the proposal is to consult on the DPD for six weeks later in 2023 following the Local Elections. The updated version of the Local Development Scheme (LDS) recommends a new timetable for the DPD. This takes into account the need to consult for a period of six weeks on the DPD and charts a realistic timetable for independent Government Examination in Autumn/Winter 2023, with adoption of the DPD anticipated early in 2024.

- 4.9 Due to Pre-election Periods and post elections administration to form Councils, it is unlikely that decisions could be made by the Joint Committee until June/July 2023 and Full Councils in September. However, Officers would not be presenting the Submission Version Plan for consideration and public consultation if it did not meet the tests of soundness, based on evidence and taking into account the outcome previous stakeholder engagement under Regulation 18, and supported by a Sustainability Appraisal. Summary

of the Regulation 18 consultation is included within the report to the Joint Committee highlighting the three main issues related to Green Buffers and Land South of the A133, Salary Brook and Crockleford Heath and Bromley Road. Technical evidence has been completed and changes incorporated into the Submission Version Plan on all three of these key issues.

- 4.10 It is important to remember that this stage of the process is plan making, setting policy direction and not the determination of planning applications, which will follow once the DPD is adopted as required by Section 1 of the Local Plans. There will be detailed section 106 planning agreements negotiated and in place, prior to planning permissions being granted. There may be details which members would wish to seek further assurances on, which relate to the later stages of the process, including planning obligations, commitments and delivery.
- 4.11 In setting up the Joint Committee, Tendring District Council, Colchester City Council and Essex County Council delegated certain functions, for the purpose of this report, to exercise the Council's respective functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:
- (a) is in accordance with the Local Development Schemes;
  - (b) includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;
  - (c) meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
  - (d) has regard to the adopted Section 1 of Colchester City Council and Tendring District Council's Local Plan;
  - (e) has regard to the resources likely to be available for implementing the proposals in the document;
  - (d) other such matters the Secretary of State prescribes; and
  - (e) complies with the Council's Statement of Community Involvement
- 4.12 The Joint Committee has carried out these functions and if approved, has satisfied itself to exercise a further delegated function and make recommendations to Colchester City Council and Tendring District Council in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 4.13 Full Council is therefore being requested to approve the Submission Version of the DPD, for Regulation 19 consultation and submission to the Secretary of State's Planning Inspectorate, for an examination process similar to that of the Section 1 and 2 of the Local Plan stages.
- 4.14 Without a DPD in place for the Garden Community, the Councils are in a weaker position with regards to our respective Local Plans. The principle of development in this area has been established in Section 1 and the Councils are under an obligation to move to the next phase. Section 1 contained Policies SP8 and SP9 requiring DPDs to set out how the new Garden Community will be designed, developed and delivered in phases, in accordance with a set of principles.
- 4.15 The Developer and their partners are committed to the Garden Community and up to the examination, and prior to the Section 106 negotiations, it is our advice for the Councils to seek a Memorandum of Understanding with the developer focusing on some principles for delivery and wider relations.

- 4.16 Entering into any agreement with Latimer and the Councils is an executive function and therefore Full Council can endorse this recommendation to be taken forward.

## **5. Strategic Plan References**

- 5.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to set out the direction and future potential for our City.

## **6. Publicity and Consultation Implications**

- 6.1 The DPD will be subject to a public consultation in accordance with the relevant regulations as detailed in this report.

## **7. Financial, Equality, Diversity and Human Rights, Consultation, Health, Wellbeing and Community Safety, Health and Safety, Risk Management and Environmental and Sustainability Implications**

- 7.1 None.

### Appendices

Appendix 1: Tendring Colchester Borders Garden Community Submission Version Development Plan Document

Appendix 2: Sustainability Appraisal Regulation 19 (February 2023)

Appendix 3: Updated extract from the TDC and CCC Local Development Scheme (LDS) – note that this appendix is found at the end of Appendix 5

Appendix 4: Submission Version DPD Policies Map – note that this appendix is found at the end of Appendix 5

Appendix 5: Report (and Appendices 3 & 4) (item A.1) to the meeting of the Joint Committee held on 27 February 2023.

Appendix 6: Memorandum of Understanding dated 24 February 2023 signed by Essex County Council, Colchester City Council, Tendring District Council and Latimer (Tendring Colchester Borders Garden Community) Development Limited in order to govern the relationship, collaboration and co-operation of the aforementioned Parties in relation to the delivery of the A120-A133 Link Road to support the development of the Tendring Colchester Borders Garden Community