

27 January 2016

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	North Essex Garden Settlements – Project Governance Arrangements		
Wards affected	All		

This report requests Cabinet to approve governance arrangements in relation to the proposed North Essex Garden Settlements Project

1. Decisions Required

- 1.1 That the Leader of the Council, the Portfolio Holder for Economic Growth and Planning and the Chief Executive (or their nominated representative) be authorised to represent and to make executive decisions on behalf of the Council, in accordance with the Council's Constitution, on the Joint Shadow Delivery Board in accordance with the Governance Structure, set out in Appendix A.
- 1.2 Authority be delegated to those Officers appointed by the Chief Executive to represent the Council on the Joint Steering Group and relevant delivery/project teams to make decisions in accordance with the relevant terms of reference, as set out in Appendix A.
- 1.3 Cabinet notes the outcome of the recent bid for grant funding from the Department of Communities and Local Government (DCLG) to progress the Garden Settlements concept and provides on-going support and partnership working together with Braintree District Council, Essex County Council and Tendring District Council to deliver the project.
- 1.4 That the Council hold the DCLG grant funding on behalf of the North Essex Garden Settlements Project and that authority to approve expenditure of the grant funding be delegated to the Joint Steering Group in accordance with the project.
- 1.5 Cabinet notes the desire of the Joint Shadow Delivery Board to deliver the development through a special purpose vehicle and supports advice being commissioned.
- 1.6 The Leader of the Council be authorised to make a decision to establish a special purpose delivery vehicle following receipt of a detailed report and of no concerns being raised by either the Council's Section 151 or Monitoring Officers. Should any material changes or substantial financial investment by the Council be required, a further report be presented to Cabinet for further decisions.

2. Reasons for Decision

- 2.1 To seek Cabinet's on-going support, working together with Braintree District Council, Essex County Council and Tendring District Council, to progress the concept of 'garden settlements' using the funding recently awarded by the DCLG and to approve governance arrangements for the project.

3. Alternative Options

- 3.1 No alternative options are presented.

4. Background Information

- 4.1 In the work being carried out by the Council, Braintree District Council and Tendring District Council on their respective Local Plans, the potential for new major developments in the form of new 'garden settlements' has been identified as a possible means of meeting future growth requirements. There are 4 sites under consideration in North Essex and these include new settlements crossing the administrative boundary of Tendring and Colchester in the vicinity of the University and crossing the administrative boundary of Colchester and Braintree at Marks Tey.
- 4.2 The three district Councils working in partnership with Essex County Council and the University of Essex have already begun to explore the potential for such developments and are receiving assistance from the 'ATLAS' team at the Homes and Communities Agency (specialising in major development proposals) and 'Garden City Developments Ltd' (specialising in the application of 'Garden City' principles to the development of new settlements and major new suburbs). A Steering Group consisting of Council Leaders, Planning Portfolio Holders, Chief Executives and other Senior Officers have entered into a Memorandum of Understanding with Essex County Council and the University of Essex, overseen the involvement of ATLAS and Garden City Developments, begun to develop a vision for the new settlements and have started work to explore some of the potential infrastructure requirements of developments of this scale along with potential funding mechanisms. The Councils have also jointly employed a new project manager to coordinate this work.
- 4.3 In 2014 DCLG issued a prospectus entitled 'Locally-led Garden Cities'. This document invited expressions of interest from Councils interested in developing new Garden Settlements, along with an indication of how Government could support such development.
- 4.4 A joint bid for funding was submitted in response to DCLG's prospectus setting out proposals and a level of ambition to adopt Garden City Principles. It is important to note that the bid acknowledged that the Councils have included a Garden Settlement(s) as an option for growth in their upcoming Local Plan consultations to date. Submission of the bid for government funding to explore the concept further did not commit the Council to including the Garden Settlement option, which is a decision to be made by Council when it decides the Preferred Options in 2016. The bid sought funding from the government to procure further specialist advice to assist in advancing the garden settlement proposals in an efficient manner.
- 4.5 In December 2015 the Council was notified that the North Essex Garden Settlement bid to DCLG had been successful and £640,000 funding had been awarded.
- 4.6 Prior to the bid funding being awarded the Project agreed an interim governance structure to ensure a joint and cohesive approach where appropriate to the development of potential garden settlements within the council districts of Colchester, Tendring & Braintree. At the time it was recognised that the structure would evolve as the project progressed and require review and adaptation at key stages to ensure it was fit for purpose.

- 4.7 As part of the Duty to Co-operate, the Planning Authorities agreed approaches to strategic plan-making which included identifying the concept of Garden Village Settlements to potentially deliver the required housing growth in each area, it was therefore necessary to explore this and discussions with third party landowners progressed. Since then, DCLG has committed substantial funding to the next stage of the project, to progress from a concept to delivery, which involves land negotiation with a view to development, which if agreements are reached, may assist the local plan process. It is important to stress that this project is a separate function in law to the local plan decision making and will run in parallel to it.
- 4.8 The implications are that the project is likely to shortly enter a substantially more intense period over the next year, and that it is appropriate to review the governance structure at this point to ensure it can meet the likely challenges of the coming year and provide the necessary authority and delegations for decision making. Key milestones over the coming year include the publication of Local Plan Preferred Options in summer 2016, confirmation of business plan(s) and Delivery Vehicle(s) in respect of those garden settlements where the Councils will have a key delivery role. Whilst the Local Plan functions and responsibilities fall to the Local Plan Committee and full Council, strategic planning and partnership working together with land negotiations and requisite funding decisions sit with Cabinet.
- 4.9 The proposed governance structure focuses on three areas:
- Creating a single Shadow Joint Delivery Board for Garden Settlements
 - A streamlined Garden Settlements Joint Steering Group
 - A revised approach to the Working Group / Team structure reflecting inputs that will be required to both planning and investment-related work-streams that will take place over the next six months.
- 4.10 This report recommends the governance arrangements including specific delegations required to progress the project in accordance with the governance structure. It is acknowledged that the project is an evolving concept and these delegations are authorised on the principle that if any substantial changes materialise or significant financial investment is required a further report will be presented back to Cabinet.
- 4.11 A separate report on the planning aspects of the project was considered by the Local Plan Committee at its meeting on 14 December 2015.

5. Supporting Information

- 5.1 In the work being carried out by the Councils new 'garden settlements' have been identified as a possible means of meeting future growth requirements. In accordance with the Duty to Cooperate, the Council is working closely with Braintree District Council and Tendring District Council, who are at similar stages in their respective Local Plan preparation, to plan effectively for the long term. As part of this process, the Councils (with assistance from Essex County Council) are thinking strategically, are not being restricted by current plan making time horizons and are considering whether Garden Settlements could address some of this long term need both within the plan period and beyond.

What are Garden Cities?

- 5.2 Garden Cities are described by the Town & Country Planning Association (TCPA) as *“holistically planned new settlements which enhance the natural environment and offer high-quality affordable housing and locally accessible work in beautiful, healthy and sociable communities”*
- 5.3 Garden Cities are underpinned by a set of principles. These principles have evolved from Ebenezer Howard’s original vision in 1898 which described how *‘the advantages of the most energetic and active town life, with all the beauty and delight of the country, may be secured in perfect combination’* and include:
- land value capture for the benefit of the community;
 - strong vision, leadership and community engagement;
 - community ownership of land and long-term stewardship of assets;
 - mixed-tenure homes and housing types that are affordable for ordinary people;
 - a strong local jobs offer in the Garden City itself, with a variety of employment opportunities within easy commuting distance of homes;
 - beautifully and imaginatively designed homes with gardens, combining the very best of town and country living to create healthy homes in vibrant communities;
 - generous green space linked to the wider natural environment, including a surrounding belt of countryside to prevent sprawl, well connected and biodiversity rich public parks, and a mix of public and private networks of well-managed, high-quality gardens, tree-lined streets and open spaces;
 - opportunities for residents to grow their own food, including generous allotments;
 - strong local cultural, recreational and shopping facilities in walkable neighbourhoods; and
 - integrated and accessible local transport systems with walking, cycling and public transport being the most convenient and affordable – with a series of settlements linked by rapid transport providing a full range of employment opportunities (as set out in Ebenezer Howard’s vision of the ‘Social City’ in his book – *To-Morrow: A Peaceful Path to Real Reform* (1898)).
- 5.4 In terms of scale, the Government has indicated that Garden Cities should comprise approximately 15,000 dwellings and above, as well as associated employment, green space and infrastructure, with the expectation that it would take longer than one plan period to deliver these new communities. Additionally, there could be scope to apply Garden City Principles including land value capture to smaller settlements.
- 5.5 Following the Issues and Options Report and the Call for Sites exercise, the Council (in conjunction with Braintree District Council and Tendring District Council) jointly appointed Garden City Developments CIC (GCD), a not for profit community interest company, to promote and establish partnerships with local landowners and option holders to investigate the feasibility of the proposed Garden Cities. John Walker from GCD is attending the meeting to assist Members who may have specific queries in terms of the Garden City approach and GCD’s involvement in the process to date.
- 5.6 GCD has met Members from each Council, has held numerous meetings with key landowners, and is currently undertaking discussions with these landowners and option holders.
- 5.7 The intention of these discussions is to develop the Councils’ options around applying land value capture and long term stewardship arrangements, and to specifically explore

landowners' appetites for engaging with the councils on these issues and willingness to enter legally binding agreements with the respective councils to such effect.

- 5.8 Parallel to this, the Councils are also actively seeking to evolve the policy process to further endorse the emerging concepts – the result being that all three Councils may decide to identify a Garden Settlement as a broad location for growth in their Local Plan Preferred Options.
- 5.9 Should the Council decide to proceed with a Garden Settlement as part of their Preferred Options, depending on its location, dedicated Development Plan Documents would be prepared for each settlement once the principle has been agreed. This process will allow for extensive community consultation and participation very early on in the process.
- 5.10 It is noted that the consideration of new Garden Settlements is considered extremely visionary and at the forefront of current strategic planning thinking. In principle support for the proposals has already been obtained from Government and the Councils are also receiving assistance from the Major Projects Division of the Homes and Communities Agency (ATLAS).
- 5.11 It is envisaged that the delivery of new Garden Settlements could assist in a commitment to a viable and committed housing trajectory across the Councils beyond the proposed Local Plan period.

Outcome of DCLG Bid

- 5.12 The Councils are already expending considerable sums as part of their formal plan making processes. The strategic scale and associated timing of potential Garden Settlements is beyond what any Council has dealt with over recent times and as such focus, dedicated resources, specialist advice and support is required to develop proposals – particularly at this early stage when the 'ask' and scope is still being defined and refined.
- 5.13 It is for this reason that in 2014, the DCLG issued a prospectus entitled '*Locally-led Garden Cities*'. This document invited expressions of interest from Councils interested in developing new Garden Settlements, along with an indication of how Government could support such development.
- 5.14 In response to this prospectus, the Councils bid for, and have been successful in obtaining, dedicated funding of £640,000 from the DCLG to further investigate the feasibility of Garden Settlements.
- 5.15 This funding will assist in facilitating a number of work streams that will need support to develop emerging proposals, to meet key milestones and secure delivery. These include brokerage assistance, direct planning support and capacity funding. The funding will also enable the Councils to both dedicate sufficient technical input, and undertake a range of key studies and assessments.

Governance Structure:

- 5.16 To commence the strategic thinking around garden village settlements and prior to the bid funding being received, an interim governance structure had been set up through the Councils' joint working. It was always anticipated that if the joint funding bid was

successful, these governance arrangements would be reviewed and refreshed to respond to the following project drivers:

- Clarity on how decisions on investment and other key areas will be made;
- Streamlining of the Shadow Delivery Board & Steering Group roles to reflect decisions that may need to be made during the coming year;
- Use & management of DCLG funding for commissioning substantive areas of consultancy support for master-planning, legal and financial work;
- Cross boundary working on strategic planning issues and associated evidence base relevant to the garden settlements between local authorities to compliment the preparation of individual Local Plans;
- Need to maintain focus in light of the number of diverse work streams related to the garden settlements running in tandem.

5.17 A refreshed Governance structure for Garden Settlements has been proposed by ATLAS to the Steering Group for adoption by the Joint Shadow Delivery Board and is attached at Appendix A. The Council is required to formally appoint Member and Officer representatives on outside bodies and it is recommended that the Leader of the Council and the Portfolio Holder for Economic Growth and Planning and Chief Executive (or their nominated representative) would sit on the Joint Delivery Shadow Board. The Chief Executive will appoint officers to the Steering Group and delivery teams as appropriate. All appointees will be provided with authority to act in accordance with the relevant groups terms of reference. It is accepted that the governance structure might require further revision as the project evolves.

5.18 It is noted that the Leader of the Council, and/or the Portfolio Holder for Economic Growth and Planning cannot override or constrain any decisions falling within the remit of the Local Plan Committee.

Special Purpose Delivery Vehicle & Bodies:

5.19 Garden Cities Developments Limited ('GC Developments') has been engaged by the Councils to assist with this project. As the land under consideration is owned by third parties initial discussions have commenced with the landowners. One concern expressed by landowners is whether the Councils are able to deliver the development. GC Developments have advised that the creation of a separate delivery vehicle for this purpose will help demonstrate that the Councils are serious and committed to the project and therefore aid their discussions with landowners. The Joint Shadow Delivery Board received some legal advice providing an analysis of delivery vehicle options, taking into account the development:

- Is likely to take decades to complete;
- Will need to be undertaken by co-operation with the landowner;
- Will need to find a way of 'capturing land value' for the community'; and
- Will need to find a way of securing long term stewardship of the community assets.

5.20 Possible forms of delivery vehicle were considered accepting that no development model has been identified. The vehicle needs (as far as possible) to be:

- Established quickly, to assist with the establishment of credibility;
- Flexible, given the uncertainty as to how the model might work;
- Designed with transition in mind – so it can move from a body with a delivery role vehicle to a vehicle which exercises long term stewardship of assets;

- Able to access finance (either from the Councils via prudential borrowing or commercial borrowing guaranteed by Councils); and
- Able to buy and sell land and hold significant contracts with landowners.

5.21 There are some factors which always need to be considered when establishing an external entity. These are:

- Ability to distribute surpluses;
- Ability to reflect ownership;
- Security/stewardship of assets;
- Procurement law;
- State Aid; and
- Taxation

5.22 In addition to considering a vehicle structure the number of delivery bodies needs to be explored. Options are:

- Single entity to deliver all projects.
- Single entity with SPV subsidiary for each project (which could include Developers).
- One entity for each project.

5.23 The Joint Shadow Delivery Board favoured an overarching corporate entity wholly owned by the all the Councils, which will have the ability to set up separate single special purpose vehicles for each site/project, if required. On this basis further advice is being commissioned to run parallel with the various concept phasing, to ensure that once the preferred type of development model is known the appropriate delivery vehicle can be established, thereby preventing any unnecessary delay to the progress of the project. For this reason it is preferred that the Leader of the Council has delegated authority to decide to establish the appropriate delivery vehicle, in consultation with the Council's Section 151 and Monitoring Officer's.

5. Strategic Plan References

5.1 The Strategic Plan Action Plan includes a commitment to make Colchester a vibrant, prosperous, thriving and welcoming place. The new Local Plan will contribute to the attainment of this commitment through new development, conservation and regeneration.

6. Financial Considerations

6.1 The funding awarded by DCLG is being held by the Council on behalf of and ring-fenced for the North Essex Garden Settlement Project. Authority to authorise expenditure from the DCLG funding is delegated to the Joint Steering Group.

6.2 The project is still at an early stage, and the full financial implications for the authorities involved have not as yet been determined. The project is likely to involve the need to externally borrow significant sums, as well as source funding within existing resources within the overall context of our medium term forecasts / treasury strategies. This will be discussed in detail between the Chief Financial Officers of each authority, with the outcomes being subject to further decisions as the project progresses.

7. Equality, Diversity and Human Rights Implications

7.1 No direct implications

8. Legal Implications

- 8.1 Strategic planning, partnership working, land negotiations for future development, consideration of delivery vehicles and requisite funding decisions are executive functions which are the responsibility of Cabinet.

9. Consultation and Publicity Implications.

- 9.1 The concept of new settlements crossing the boundary of Colchester and Tendring has already been the subject of public consultation both through the Colchester Issues and Options consultation and the recent Tendring Issues and Options consultation. Braintree District Council also made reference to Garden Settlements in their Issues and Options consultation.

10. Community Safety, Health and Safety and Implications

- 10.1 No direct implications.

11. Risk Management Implications

- 11.1 Without the funding being requested, the Councils involved will have had to resource future exploratory work within their existing budgets

Appendix A: Governance Structure for Garden Settlements

Background Paper

- The Department for Communities and Local Government (DCLG) prospectus entitled 'Locally-led Garden Cities'