



# TENDRING/COLCHESTER BORDER GARDEN COMMUNITY JOINT COMMITTEE

<b>DATE:</b>	<b>Monday, 18 July 2022</b>
<b>TIME:</b>	<b>6.00 pm</b>
<b>VENUE:</b>	<b>Layer Suite, Community Stadium, United Way, Colchester CO4 5UP</b>

**MEMBERSHIP:**

**Councillor N Turner (TDC) (Chairman)**  
**Councillor J Bray (TDC)**  
**Councillor T Cunningham (ECC)**  
**Councillor C Guglielmi (TDC)**

**Councillor D King (CBC)**  
**Councillor A Luxford-Vaughan (CBC)**  
**Councillor L Wagland (ECC)**  
**Councillor J Young (CBC)**

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DATE OF PUBLICATION: Monday 4 July 2022

## AGENDA

### **1 Election of the Deputy Chairman of the Joint Committee**

Following the cessation of the former Deputy Chairman's term of office as a member of Colchester Borough Council, to now elect the Deputy Chairman of the Joint Committee for the remainder of the 2022/2023 Municipal Year.

### **2 Apologies for Absence and Substitutions**

The Joint Committee is asked to note any apologies for absence and substitutions received from Members.

### **3 Minutes of the Previous Meeting of the Joint Committee (Pages 1 - 14)**

To confirm and sign as a correct record, the Minutes of the previous meeting of the Joint Committee, held on Monday 28 February 2022.

### **4 Declarations of Interest**

Councillors are invited to declare any Disposable Pecuniary Interests or Personal Interest and the nature of it, in relation to any item on the agenda.

### **5 Public Speaking (Pages 15 - 16)**

The Public Speaking Scheme for the Joint Committee gives the opportunity for members of the public and other interested parties/stakeholders to speak to the Joint Committee on any specific agenda item to be considered at this meeting.

The Chair will invite public speakers to speak following the Officer's introduction to the report on the item. The Chair will ask public speakers to come to the table in turn at the beginning of the discussion of the report of the relevant item.

Members of the public, who want to speak about an item which will be considered at this meeting of the Joint Committee can do so if they have notified the Officer listed below by Noon on Friday 15 July 2022.

Contact Ian Ford [Email: iford@tendringdc.gov.uk](mailto:iford@tendringdc.gov.uk) or Telephone: (01255) 686584.

### **6 Report A.1 - Development Plan Document: Representations Received in Response to the Regulation 18 Consultation and Next Steps (Pages 17 - 34)**

To report to the Joint Committee, some of the notable issues raised in the representations received from the public and other interested parties to the consultation on the first draft Development Plan Document i.e. 'the Plan' for the Garden Community under Regulation 18 of the statutory plan making process.

To highlight, for information, particular issues raised in the representations that may require the Councils to consider changes to the Plan, undertake or commission further work or analysis to inform possible changes for the Joint Committee's consideration.

### **7 Report A.2 - The Draft Plan for the Tendring Colchester Borders Garden Community Evidence Base Update (Pages 35 - 42)**

To provide an update on the Evidence Base required for the Tendring Colchester Borders Development Plan Document including evidence already gathered and further work that is underway.

**8 Report A.3 - Rapid Transit System Update (Pages 43 - 48)**

To provide an update on the progress toward delivering a Rapid Transit System serving the Tendring Colchester Borders Garden Community and wider Colchester area.

**9 Report A.4 - Joint Committee Planning Probity Protocol (Pages 49 - 64)**

To consider the attached **Planning Probity Protocol** (Appendix A) related to the functions of the Tendring Colchester Borders Garden Community (TCBGC) Joint Committee. The Protocol describes how the Councils will deal with planning applications and other planning practices within the TCBGC area.

**Date of the Next Scheduled Meeting**

*The date of the next scheduled meeting of the Tendring/Colchester Border Garden Community Joint Committee will be published in due course.*

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# Public Document Pack Agenda Item 3

Tendring/Colchester Border Garden  
Community Joint Committee

28 February 2022

**MINUTES OF THE INAUGURAL MEETING OF THE TENDRING/COLCHESTER  
BORDER GARDEN COMMUNITY JOINT COMMITTEE,  
HELD ON MONDAY, 28TH FEBRUARY, 2022 AT 6.00 PM  
IN THE LAYER SUITE, COMMUNITY STADIUM, UNITED WAY, COLCHESTER CO4  
5UP**

<b>Present:</b>	Councillors M Bush (TDC), T Cunningham (ECC), P Dundas (CBC), C Guglielmi (TDC), A Luxford-Vaughan (CBC), G Oxford (CBC), N Turner (TDC) and L Wagland (ECC)
<b>Also Present:</b>	Councillors M Platt (ECC), M Cory (ECC), S Crow (ECC), A Fox (CBC), J Young (CBC), T Young (CBC), G Scott (TDC) and A Wiggins (TDC)
<b>In Attendance:</b>	Lisa Hastings (TDC Deputy Chief Executive & Monitoring Officer), Gary Guiver (TDC Acting Director (Planning)), Lindsay Barker (CBC Strategic Director (Policy & Place)), Andrew Weavers (CBC Strategic Governance Manager & Monitoring Officer), Ian Ford (TDC Committee Services Manager), Matthew Jericho (ECC Spatial Planning Manager), Shelley Blackaby (CBC Garden Community Planner), Karen Syrett (CBC Lead Officer (Planning, Housing & Economic Growth)), William Lodge (TDC Communications Manager), Sharon Carter (TCBGC Communications Manager), Catherine Gardner (TCBGC Programme Support Officer), Kai Aberdeen (TDC Theatre General Manager (Technical)), Keith Durran (TDC Committee Services Officer), Matt Cattermole (TDC Communications Assistant) and Rob Smith (Director - Hyas Associates Limited)

## 1. **ELECTION OF THE CHAIRMAN OF THE JOINT COMMITTEE**

It was moved by Councillor Paul Dundas, seconded by Councillor Carlo Guglielmi and:-

**RESOLVED** that Councillor Nick Turner be elected Chairman of the Joint Committee for the remainder of the 2021/2022 Municipal Year and the ensuing 2022/2023 Municipal Year.

## 2. **CHAIRMAN'S OPENING REMARKS**

The Chairman of the Joint Committee (Councillor Nick Turner) made the following opening remarks:-

*"Welcome and good evening to my fellow Councillors, our Officers, the media and our audience.*

*Thank you fellow members for the privilege in becoming the first Chairman of this rare beast – a joint planning committee across two tiers of local government and three authorities. The first step is the most important one in any journey and we have now taken that.*

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*Not too far from this room, 110 weeks ago, we had the second round of the examination-in-public of Part 1 of the joint Local Plan for Tendring District Council (TDC), Colchester Borough Council (CBC) and Braintree District Council.*

*A very thorough examination was made, it was the biggest Local Plan examination in England. Many of us here tonight sat through some, if not all, of the many, many days it took Mr Roger Clews to hold the Examination.*

*A year later, TDC and CBC adopted Part 1 that led to the formation of a joint steering group together with Essex County Council (ECC). That group, and the wider membership of each Council agreed to a joint committee. I'd like to pay a personal tribute to Councillor Tom Cunningham for the excellent and courteous way in which he chaired the meetings of the Steering Group.*

*This Committee will eventually act as one would expect a planning committee to work i.e. to approve or refuse planning applications. In the meantime we will be debating, scrutinising, overseeing and agreeing the various documents and consultations that will ultimately form the final Development Plan Document (DPD). That will then be consulted upon once more and submitted to the Planning Inspectorate for Public Examination.*

*After which, subject to any changes the Inspectorate might require, the Committee will be recommending the adoption of the DPD to TDC and CBC.*

*For tonight, Mr. Andrew Weavers will make the presentation for A.1 and after that I will invite the public speakers to make their points then we will discuss and go to the vote. The same procedure will apply to item A.2 with Mr. Gary Guiver leading on that presentation to be then followed by the public speakers and a written submission from Wivenhoe Town Council which I will read out. Then the committee discussion and the vote."*

### **3. ELECTION OF THE DEPUTY CHAIRMAN OF THE JOINT COMMITTEE**

It was moved by Councillor Carlo Guglielmi, seconded by Councillor Nick Turner and:-

**RESOLVED** that Councillor Paul Dundas be elected Deputy Chairman of the Joint Committee for the remainder of the 2021/2022 Municipal Year and the ensuing 2022/2023 Municipal Year.

### **4. DECLARATIONS OF INTEREST**

Councillor Andrea Luxford-Vaughan queried whether "twin hatted" Members of the Joint Committee would be precluded from voting on report A.2 (the Development Plan Document item) in the light of Essex County Council's ongoing re-negotiation of the Housing Infrastructure Fund (HIF) funding requirements with Homes England.

Mrs Lisa Hastings, Deputy Chief Executive & Monitoring Officer, Tendring District Council responded with advice that as the HIF funding was not on the Agenda for this meeting then those Councillors in question were not precluded from voting on report A.2.



5. **REPORT A.1 - INTRODUCTION TO THE NEW TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE**

Members had before them a report (A.1) which introduced the newly established Tendring Colchester Borders Garden Community (TCBGC) Joint Committee which had been appointed for the discharge of specific executive and non-executive functions. The report also covered any early administrative matters related to the Terms of Reference and Standing Orders agreed by Tendring District Council (TDC), Colchester Borough Council (CBC) and Essex County Council (ECC) ("the three Councils").

The report was introduced by Mr Andrew Weavers, Strategic Governance Manager & Monitoring Officer, Colchester Borough Council.

Members were reminded that the Joint Committee's remit was to jointly discharge those specific executive and non-executive functions related to TCBGC, delegated 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 report A.1.

The functions delegated were set out in 4.2 (a) to (h) (in the aforesaid Appendix A). However, in summary there were two themes, namely:-

- (i) *To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC Development Plan Document 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 CBC & TDC's Local Plan;*
  - e. *has regard to the resources likely to be available for implementing the proposals in the document;*
  - f. *other such matters the Secretary of State prescribes; and*
  - g. *complies with the Council's Statement of Community Involvement.*
- (ii) *To act as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015, within the TCBGC area.*

There were limitations to those delegations and those were set out in paragraphs 4.3 and 4.4.

In addition, Members noted that not all executive functions had been delegated, though further functions in relation to TCBGC might be delegated to the Joint Committee by the Leaders of the three Councils in the future. However, at this time, the initial focus of the Committee would be functions in connection with the preparation of the joint Development Plan Document and to determine any planning applications. Therefore, it was possible that questions would be raised for consideration which were outside the remit of the Joint Committee and officers would provide advice on those aspects as such matters arose.

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It was reported that the three Councils were represented on the appointed Joint Committee with full voting rights. However, ECC had decided at its meeting held on 7 December 2021 that its membership would consist of two seats instead of the possible three (as approved by TDC and CBC at their respective earlier meetings), therefore the make-up of the Joint Committee was as follows:

Membership:

- (iii) *2 Members appointed by TDC (one of which must be the Chairman of the Planning Policy and Local Plan Committee) plus 1 Cabinet member appointed by the Leader*
- (iv) *2 Members appointed by CBC (one of which must be the Chairman of the Local Plan Committee) plus 1 Cabinet member appointed by the Leader*
- (v) *2 Members appointed by ECC, one of whom should be a Cabinet Member or Deputy Cabinet Member.*

For the purposes of introducing the Terms of Reference the Joint Committee's attention was drawn to the following administrative matters:-

Quorum:

The quorum of a meeting of the Joint Committee was as follows:-

- (vi) *2 Members from Tendring District Council*
- (vii) *2 Members from Colchester Borough Council*
- (viii) *2 Members from Essex County Council*

Substitute Members

Each Council had appointed one substitute member having the powers and duties as set out in paragraphs 5.2 and 5.3.

Training:

All members of the Joint Committee will have undertaken suitable training which will have been approved by the parties. *This requirement will be necessary prior to the determination of any planning application, or as deemed necessary by officers advising the Joint Committee.*

Standing Orders:

The Joint Committee would be governed by the Standing Orders set out in Appendix 3 of the Terms of Reference. Those Standing Orders could be amended by the Joint Committee from time to time within the scope of the Terms of Reference following consultation with the three Councils' Monitoring Officers.

Administration:

TDC would be responsible for the administration of the Joint Committee and would undertake all matters connected thereto, including the preparation and dispatch of agendas and securing premises at which the Joint Committee would meet.

### Public Speaking Rights

Members of the public would have the public speaking rights set out in Annex A, though the Joint Committee had the power to amend the public speaking rights.

Members were made aware that there remained some matters to be determined which were as follows:-

### Venue(s) for the Meetings of the Joint Committee

It was felt necessary to agree a regular venue and starting time for the Joint Committee to meet whilst providing flexibility for alternative arrangements if necessary. It was proposed by Officers that the University of Essex's Wivenhoe Park Campus be the regular venue for the Joint Committee going forward, due to its proximity to the site of the Garden Community. However, this would be subject to its availability and a review as to its suitability in the light of the experience for both the Joint Committee and the public. It was recommended by Officers that the Joint Committee agrees that any interim alternative arrangements would be determined by Officers, in consultation with the Chairman of the Joint Committee.

### Public Speaking Rights:

During previous discussion on the remit of the Public Speaking Scheme, elected Members had raised whether the ability to address the Joint Committee extended to them?

It was reported that, during the production of the Scheme, it was always intended by Officers that elected Members would have this opportunity within the Scheme. Therefore it was proposed by Officers that the Joint Committee confirmed that the Scheme should be amended to expressly state that elected Members from TDC, CBC and ECC were able to address the Joint Committee on matters within the agenda. For the consideration of Planning Applications, Ward or Division Councillors for the Garden Community area or for adjacent wards/divisions would have an additional right to address the Joint Committee.

### Planning Probity Protocol:

Members were aware that the Joint Committee would be able to determine planning applications made in relation to development within the TCBGC area and therefore, it was felt important that a Planning Probity Protocol be adopted for the Joint Committee and it was recommended by Officers that they be instructed to draw up and submit a suggested Protocol to a future meeting of the Joint Committee.

Pursuant to the provisions of the Public Speaking Scheme for the Joint Committee, Mr Bill Marshall and Mr James Marchant (Colchester East Action Group) addressed the Joint Committee on the subject matter of this item.

Following a discussion and debate on matters pertaining to this report and questions by Members which were answered, as appropriate, by the Deputy Chief Executive & Monitoring Officer (Lisa Hastings), the Strategic Governance Manager & Monitoring Officer (Andrew Weavers) and the Spatial Planning Manager (Matthew Jericho):-

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It was moved by Councillor Paul Dundas, seconded by Councillor Tom Cunningham and:-

**RESOLVED** that the Tendring Colchester Borders Garden Community (TCBGC) Joint Committee -

- (a) notes the executive and non-executive functions related to TCBGC delegated to them pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972, as set out in the Terms of Reference attached at Appendix A to report A.1;
- (b) notes that Essex County Council has appointed two members and that the Terms of Reference should be amended by all three Councils accordingly for completeness;
- (c) agrees that the regular venue and start time for the meetings of the Joint Committee will be the University of Essex's Wivenhoe Park Campus at 6pm and that any necessary alternative arrangements will be made by Officers, in consultation with the Chairman of the Joint Committee;
- (d) agrees that the Public Speaking Rights Scheme be amended to expressly state that elected members from the three Councils are entitled to address the Joint Committee within the Scheme and that additional rights be given to Ward and Division Councillors (including extra speaking time);
- (e) the Monitoring Officers of the three Councils be authorised to agree the wording for the amendments and then to publish the revised scheme; and
- (f) requests that Officers produce a draft Planning Probity Protocol for further consideration by the Joint Committee at a future meeting thereof.

**6. REPORT A.2 - THE DRAFT PLAN FOR THE TENDRING COLCHESTER BORDERS GARDEN COMMUNITY DEVELOPMENT PLAN DOCUMENT - REGULATION 18 STAGE**

The Joint Committee had before it a comprehensive report (A.2) which presented to it the first draft of the Development Plan Document for the Tendring Colchester Borders Garden Community (TCBGC) and sought its approval to publish that Draft Plan and other relevant documents for public consultation in accordance with Regulation 18 of the statutory plan making process.

The report was introduced by Mr Gary Guiver, Acting Director (Planning), Tendring District Council.

The Joint Committee was aware that the adopted shared Section 1 Local Plan for North Essex identified a broad area of land crossing the Tendring/Colchester border for the development of a new Garden Community comprising 7,000-9,000 homes and 25ha of employment land along with new neighbourhood centres, health facilities, schools, early years facilities, provision for gypsies and travellers, land for the future expansion of the University of Essex and all associated infrastructure. The development was to be served by a 'Rapid Transit System' and a link road between the A120 and A133, for which Government funding had been secured through the Housing Infrastructure Fund (HIF).

Members were also aware that the Section 1 Local Plan required the preparation and formal adoption of a specific 'Development Plan Document' (DPD) containing further details of the Garden Community before any planning applications for development at the site could be approved. Officers from Tendring District Council (TDC), Colchester Borough Council (CBC) and Essex County Council (ECC) ("the three Councils") had worked together with partners and specialist consultants to produce a first 'Draft Plan' for the Garden Community which addressed specific requirements of the Local Plan whilst having particular regard to community and stakeholder feedback, a range of technical evidence and a comprehensive master planning exercise.

The Joint Committee was advised that the DPD for the TCBGC, like the Local Plan to which it related, must proceed through the statutory plan-making process which involved different stages of public consultation and an examination by a Government-appointed Planning Inspector, before it could be adopted. The Draft DPD was recommended by Officers to be published for a minimum of six-weeks formal public consultation in accordance with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. It was considered that this consultation would allow any interested parties (including residents, businesses, developers and other groups and organisations) to comment on the first draft and for those comments to be taken into account by the three Councils in drawing up a revised version of the Plan for a further final round of consultation and submission to the Secretary of State for public examination later in the year.

#### Masterplanning process, engagement and evidence gathering

The Joint Committee was informed that a comprehensive master planning process involving specialist consultants with input and review by the three Councils had been carried out to inform the content of the Draft Plan. To date, the master planning process had involved a technical baseline analysis of the site, wide ranging community engagement to inform and guide an overarching strategic vision for the development, and a 'spatial options' exercise to generate reasonable options and alternatives for the potential layout and configuration of the Garden Community.

Both the master planning process and the drafting of planning policies for inclusion in the Draft Plan had also been informed by a range of technical studies and evidence across a range of topics which would be further expanded and refined in order to inform the evolution and refinement of the Plan as it progressed towards the next stage of the statutory plan making process throughout 2022.

It was reported that the recommended policies and proposals in the Draft Plan, including the preferred option and alternative options for its spatial layout, had also been the subject of Sustainability Appraisal (SA) work by independent consultants which met a legal requirement of the plan making process. The purpose of the SA was to assess the high level environmental, social and economic impacts of policies and proposals, and alternative options to inform the three Councils' decisions on the most appropriate approach to take forward.

#### The vision for the Garden Community

Members were made aware that the Draft Plan contained an overarching strategic vision which underpinned both the proposed spatial layout of the Garden Community

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and the planning policies that would guide its development. This vision related to a series of 'themes' and related ideas that had emerged from the public and stakeholder engagement activities that had been carried out in 2021. The Key Vision Themes which formed part of the Draft Plan (and which defined its structure) were as follows:-

- **Nature:** *The outdoor natural environment of the Garden Community will be its biggest asset. It will comprise green infrastructure where neighbours will spend time, play, interact and grow. It will provide a natural support system for both people and wildlife.*
- **Buildings, Places and Character:** *The Garden Community will provide the right jobs, homes and spaces for all aspects of life. It will create thriving distinctive spaces for a range of activities and employment opportunities. It will be memorable for its landscape and architecture and will be widely recognisable of its place in North Essex.*
- **Community and Social Infrastructure:** *The Garden Community will be known for its healthy and happy community. It will have a variety of diverse community spaces, play spaces, great local schools and a network of sport and leisure facilities. It will establish long term and participative stewardship of infrastructure from the outset.*
- **Movement and Connections:** *The Garden Community will be structured around a dense network of traffic-free walk and cycle routes with rapid public transit prioritised and supported by a range of innovative mobility measures. This will ensure day to day trips are shorter, quicker and cheaper without a car.*
- **Sustainable Infrastructure:** *The Garden Community will make living sustainably easy for its residents. Green infrastructure and building solutions will be integrated from the outset and follow best practice standards.*

#### Land uses and spatial approach

The Joint Committee was advised that the 'preferred spatial option' for the Garden Community, as recommended by Officers and set out in the Draft Plan, was one that involved 7,500-8,000 homes across three defined 'neighbourhoods' confined to land north of the A133, south of the A120, west of a new A120/A133 Link Road and east of a new country park around Salary Brook. The alternative options would have involved different levels of residential development, potentially taking place on land south of the A133 and east of the proposed link road. This would lead to a greater loss of agricultural land, resulting in segregated communities and raise greater concerns about long-term coalescence with surrounding towns and villages and the strong wish of residents in Elmstead Market and Wivenhoe for that not to happen.

It was reported that new employment land was proposed in the Draft Plan on an area of land south of A120 and east of the Link Road for general business and industrial activity and on an area of land north of the A133 for the potential high-tech expansion around the 'Knowledge Gateway' (at the University of Essex). It was also proposed that space for business was created within the neighbourhood centres that would serve each of the three residential neighbourhoods.

The Joint Committee was made aware that there were two alternative options for the employment land north of the A133 and for potential expansion of the University of Essex on land south of the A133 for which no preference was currently indicated in the Draft Plan. The inclusion of those alternative options in the Draft Plan drew on recent engagement and communication with the University of Essex, which was keen to ensure the Garden Community provided the opportunity to support its long-term expansion of academic facilities and the creation of high skilled jobs through linkages to the 'Knowledge Gateway'. The alternative options involved different scales of development with different implications for connectivity with the existing 'Knowledge Gateway', commercial deliverability, accessibility and impact on land around Salary Brook and the size of any green gap south of the A133 and north of Wivenhoe. Those alternatives, which would require further assessment and technical consideration by the three Councils, were proposed to be included in the Draft Plan for consultation to enable public and stakeholder feedback before the three Councils made a final choice.

Members were informed that, whichever of the above options was eventually chosen, key areas of land around the eastern and southern edges of the Garden Community site running alongside the Link Road and the area of the B1027/Elmstead Road were to be defined as 'Strategic Green Gaps' that would be given extra protection against new development in order to ensure a green buffer between the Garden Community, Elmstead Market and Wivenhoe was maintained.

The preferred strategy also made provision for an 'area of special character' around Crockleford Heath aimed at safeguarding its distinctive rural character; new 'park and choose' facilities located near the route of the Rapid Transit System; and a provisional location for a future gypsy and traveller site in the northern area of the site close to the A120 and its proposed connection to the Link Road.

The Joint Committee was made aware that, whilst the Draft Plan set out an overarching spatial layout for the Garden Community, it could not at this stage provide precise details of how each part of the development would be laid out and configured. The policies in the Draft Plan therefore required that additional detail be worked up, in advance of any planning applications, through a Strategic (site wide) Masterplan and Strategic Design Code along with supporting Neighbourhood Masterplans and Design Codes for each phase of development. These would need to be approved by the three Councils but could be carried out either by the Councils, the developers or through a collaborative approach and with community and stakeholder engagement.

#### Planning Policies

It was reported that the Draft Plan contained a series of planning policies that supported the delivery of the preferred spatial layout, sought to deliver sustainable development and reflected the themes and vision that had emerged from the community and stakeholder engagement activities. As the Garden Community was potentially a 30-40 year development project and there were many issues that would evolve and change over that period of time, the wording of the policies had to achieve a careful balance in their level of prescription and flexibility. Officers had sought to ensure that the policies were clear enough to be meaningful and understandable, yet flexible enough to respond to inevitable change. Therefore, as a general principle, the policies in the Draft Plan either set out specific expectations and requirements, or they required that further work

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be undertaken for the three Councils' approval either before or in support of a planning application, upon which more detailed requirements could be based.

The scope and purpose of the planning policies in the Draft Plan was summarised as follows:

- **Policy 1: Land Uses and Spatial Approach** – Accompanied by a key diagram and illustrative masterplan, this policy identifies the key elements of the Garden Community, reflecting the preferred spatial option. It defines the areas for development, the approach neighbourhoods, strategic green gaps, the Crockleford Heath Area of Special Protection, the Salary Brook Country Park, the options for expansion and employment land around the University of Essex and Knowledge Gateway, the A120 business park and associated park and choose facility and the provisional location for a Gypsy and Traveller site.
- **Policy 2: Requirements for all new development** – This policy sets out general requirements around design, practical matters, impacts and compatibility that will apply to all development proposals for the Garden Community and any future development within the Garden Community once it has been established. It is essentially the 'catch all' policy for the determination of planning applications – similar in many respects to those found in both Tendring and Colchester's Section 2 Local Plans.
- **Policy 3: Nature** – Sets out specific requirements for the development relating to green infrastructure and the natural environment. The policy contains requirements for a comprehensive Green Infrastructure Strategy for the development, the need to integrate green infrastructure and blue infrastructure (water features), the protection of wildlife and the need to achieve a 'net gain' in biodiversity, expectations around the protection and planting of trees, creation of 'productive' (food producing) landscapes, and the need and technical requirements for Sustainable Drainage Systems (SuDS). The policy also requires the Garden Community to integrate sensitively with the environmental mitigation for the A120-A133 link road and a list of additional documentation to be provided in support of any planning application.
- **Policy 4: Buildings Place and Character** – This policy sets out the Councils' expectations for how the Garden Community will be a unique place with a distinctive character and how this will be determined through further Strategic and Neighbourhood level Masterplans and Design Codes. The policy requires a mix of housing size, type and tenure (with a minimum requirement of 30% affordable housing, which is established in the Section 1 Plan) and that the precise mix will be informed by a 'Housing Strategy' that the Councils will have to approve before determining relevant planning applications. The Housing Strategy will also inform the approach to the provision of care, assisted living, specialist and student housing. The policy also provides guidance on achieving an appropriate density of residential development in different parts of the site, sets specific standards around internal space standards, adaptable/wheelchair standards and garden sizes and lists the requirements for additional documents to be provided in support of planning applications.
- **Policy 5: Economic Activity and Employment** – This policy sets out the different ways in which the Garden Community will deliver opportunities for employment,



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*education and training across a variety of sectors to achieve a minimum of one job per household, either within or close to home or within a sustainable commutable distance. The key elements of the policy include the expansion of the University of Essex and Knowledge Gateway, the creation of ‘centres’ of employment activity within each of the Garden Community’s three neighbourhoods, a new business park immediately south of the A120 and ensuring opportunities for home working, for example, by providing the highest standard of broadband and live-work space. The policy also promotes the Rapid Transit System for commuters, positive partnership working with educational establishments and developers to ensure the best possible match between new jobs in growing sectors and the skills required by local people to do those jobs, as well as requiring developers to enter into a formal agreement to employ and train local people wherever possible.*

- **Policy 6: Community and Social Infrastructure** – *Ensuring the Garden Community is served by the necessary infrastructure at the right time with appropriate arrangements for long term stewardship is a key pillar of the Garden Community Principles. This policy sets out the approach to community and social infrastructure including flexible community space, specific requirements for new schools and other education facilities, sport and recreational facilities and expectations around stewardship. The policy also promotes measures aimed at promoting health and wellbeing as developed through engagement with colleagues in the NHS and Sport England, taking into account ‘healthy new towns principles’ and ‘active design principles’. Community and social infrastructure provision will need to be informed by a ‘Demographic Study’ that the Councils will have to approve before determining relevant planning applications. Proposals must also include planning obligations, a Phasing and Implementation Strategy and be informed by a Health Impact Assessment.*
- **Policy 7: Movement and Connections** – *This policy sets out all the measures to be adopted within the Garden Community to prioritise walking, cycling, public transit and other low carbon forms of transportation over private cars to help achieve net zero carbon transport by 2050 – whilst recognising that private transportation (moving towards electric and other sustainable forms) will still play an important role in people’s lives in the future and appropriate provision must be made. The policy requires further development of a Public Transport Strategy and a specific Design Code or Guidance for parking and electric charging. It also sets out expectations for the connectivity of the Garden Community with the Rapid Transit System, the new A120/A133 Link Road and the wider public transport networks as well as specific documentation in support of planning applications.*
- **Policy 8: Sustainable Infrastructure** – *The Garden Community is to be an exemplar development that leads the way in meeting the very highest standards of energy efficiency, water efficiency and renewable energy generation. This policy sets out the Councils’ expectation for all buildings to be net zero carbon, as a minimum, and contains either specific requirements for development or further work to be carried out, for the Council’s approval, to inform the development approach – given that the technologies and techniques are likely to evolve and improve over the lifetime of the development. The policy covers the approach to design and construction, renewable energy, water conservation, sustainable waste management, ultrafast broadband, and prior minerals extraction.*

- **Policy 9: Infrastructure Delivery and Impact Mitigation** – *The final policy in the Draft Plan sets out how the Council will work with the developers to ensure infrastructure is provided at the right time and follows a carefully planned phased approach. The policy also explains how the Council would intend to use legal agreements or a Community Infrastructure Levy (CIL) to secure infrastructure or relevant financial contributions.*

Pursuant to the provisions of the Public Speaking Scheme for the Joint Committee, the following persons addressed the Joint Committee on the subject matter of this item:-

Richard Cook (Latimer by Clarion Housing Group);  
Christopher Oldham (University of Essex);  
William Sunnucks;  
Yvonne Meronti (Crockleford Heath & Elmstead Acton Group);  
Manda O'Connell (Chair of Community Liaison Group);  
Sir Bob Russell;  
Councillor Julie Young (Colchester Borough Council);  
Councillor Mark Cory (Essex County Council); and  
Councillor Tim Young (Colchester Borough Council).

In addition, the Chairman of the Joint Committee (Councillor Nick Turner) read out a written statement that had been submitted, on behalf of Wivenhoe Town Council, by Town Councillor Asa Aldis.

After the completion of the public speaking session, the Chairman adjourned the meeting for 15 minutes in order to allow those persons present to have a comfort break and take refreshment. Following that adjournment the meeting resumed as follows:-

Following a discussion and debate on matters pertaining to the DPD and questions by Members that were answered, as appropriate by the Acting Director (Planning) (Gary Guiver), the Spatial Planning Manager (Matthew Jericho) and Rob Smith (Director at Hyas Associates Limited):-

It was moved by Councillor Paul Dundas, seconded by Councillor Carlo Guglielmi and:-

**RESOLVED** that the Tendring Colchester Borders Garden Community Joint Committee:

- i) agrees, subject to resolution iii) below, that the 'Tendring Colchester Borders Garden Community Draft Plan' (attached as Appendix 1 to report A.2) and the related Sustainability Appraisal (SA) (attached as Appendix 2) and other supporting evidence be published for six weeks consultation in accordance with Regulation 18 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;
- ii) authorises the Acting Director (Planning) for Tendring District Council, in consultation with the Chairman and Deputy Chairman of the Joint Committee, the Lead Officer for Planning, Housing & Economic Growth for Colchester Borough Council and the Spatial Planning Manager for Essex County Council, to make corrections, if necessary, in order to address any minor formatting, typographical,

grammatical or factual errors within the aforementioned Draft Plan (in Appendix 1), in the event that any are discovered before the public consultation commences; and

iii) agrees further, in respect of the DPD, that –

- (1) the text of Policy 1, as set out on pages 61 to 65 of the Agenda, is checked for consistency with the maps, and phrases which refer to areas such as “Land north of the A133” are replaced with clear references to diagrams or very clear text;
- (2) all maps are to be of a high resolution, “zoomable”, have scales and dimensions included and have a clear key;
- (3) if the intention is that were the University allocation to be moved to south of the A133 then the current University allocation in Option 3 would then become employment land then this needs to be clearly shown on the maps;
- (4) both option 3 & option 3A should each have a clear, unique map showing the changes to land allocations and those changes in hectares or percentages; and
- (5) an explanation of whether Insets 1 and 2 are a combined option or are separate options should be included.

The meeting was declared closed at 10.08 pm

**Chairman**

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<b>Tendring Colchester Borders Garden Community Joint Committee</b>
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## **Public Speaking Arrangements- General**

1. Members of the public, who want to speak about an item which is to be considered at a meeting of the Committee can do so if they have notified the Committee Service by 12.00 noon on the working day before the meeting. Contact Ian Ford Email: [iford@tendringdc.gov.uk](mailto:iford@tendringdc.gov.uk) or Telephone: on (01255) 686584

## **At the Committee Meeting**

2. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.
3. The Chair will invite public speakers to speak following the Officer's introduction to the report on the item. The Chair will ask public speakers to come to the table in turn at the beginning of the discussion of the report of the relevant item.
4. Each public speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.
5. Following the public speakers, the Chair will invite any Ward and Division Councillors present to each speak for up to five minutes. The Chair will tell the Councillor when the five minutes has elapsed and the Councillor must stop when requested by the Chair. The Chair has discretion to extend this time limit.
6. A representative of the TCB Community Liaison Group and a representative from Parish and Town Councils located within the Tendring Colchester Garden Community area will each be allowed five minutes in which to make their representation. The Chair will tell the representative when the five minutes has elapsed and the representative must stop when requested by the Chair. The Chair has discretion to extend this time limit.
7. All speakers should address the Chair of the Committee, which is the normal convention for Committees.
8. Public speakers should remember to:
  - Keep to 3 minutes or whatever other period has been agreed.
  - Highlight the main points they wish to raise and be as brief and concise as possible.
  - Be courteous.

At the conclusion of the public speaking, the Committee will discuss and determine the item.

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## TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

18 JULY 2022

### A.1 DEVELOPMENT PLAN DOCUMENT (DPD): REPRESENTATIONS RECEIVED IN RESPONSE TO THE REGULATION 18 CONSULTATION AND NEXT STEPS

(Report prepared by Gary Guiver, Karen Syrett, Shelley Blackaby and Matthew Jericho)

#### PART 1 – KEY INFORMATION

##### **PURPOSE OF THE REPORT**

To report to the Tendring Colchester Borders Garden Community Joint Committee, some of the notable issues raised in the representations received from the public and other interested parties to the consultation on the first draft Development Plan Document (DPD) i.e. ‘the Plan’ for the Garden Community under Regulation 18 of the statutory plan making process.

Also to highlight, for information, particular issues raised in the representations that may require the Councils to consider changes to the Plan, undertake or commission further work or analysis to inform possible changes for the Committee’s consideration.

This report does not seek to provide an account of each and every comment raised through the consultation – however the Councils are required to have taken all responses into account in progressing to the next stage of the plan-making process.

##### **EXECUTIVE SUMMARY**

Public consultation on the first draft of a Plan for the Garden Community commenced on 14<sup>th</sup> March and closed on 25<sup>th</sup> April 2022 – during which Officers held a number of face-to-face engagement events, which were attended by around 180 visitors.

The Councils received responses from 193 individuals or organisations, raising approximately 620 comments on different elements of the Draft Plan. All the representations were published on the Garden Community engagement website in June 2022 for public view – allowing interested parties to see what others have said in full. See: [Comments from the Draft Plan Consultation | Creating a Place for Life \(tcbgardencommunity.co.uk\)](#)

As part of the statutory plan-making process, the Councils are required to take the representations received at the Regulation 18 stage into account when preparing the final version of the Plan for the Regulation 19 stage, when the Plan will be published for a further round of consultation and submitted to the Secretary of State to begin the independent examination process.

The issue of green buffers between proposed new development as part of the Garden Community and neighbouring settlements has been raised as a concern. Almost half of all responses received, mostly from local residents from the Wivenhoe area, have written in objection to the prospect of

development taking place on land south of the A133 as indicated for the expansion of the University of Essex in 'Approach B' in the Draft Plan. However, the representations from both the lead developer, Latimer, and the University argue that neither Approach A nor B is appropriate and that more land is going to be needed for development, potentially south of the A133. The Community Liaison Group have put forward an alternative approach, and other community related organisations, such as Town and Parish Councils, have expressed strong views. Officers will need to review and consider the planning issues involved and are not in a position at this stage to recommend any specific changes to the Plan, but will undertake and commission further work to ensure any decision on this matter is informed by evidence.

A notable number of respondents have also objected to Approach B in respect of potential Knowledge Gateway expansion north of the A133 extending onto the sensitive slopes around Salary Brook. There is, however, a general acceptance from most parties, including the University, the developers and Officers, that the slopes of Salary Brook should be protected from development in any Plan going forward.

A number of residents have called for more protection for Crockleford Heath and the land around Bromley Road. Some suggest that a 'buffer' zone is required between existing properties and any new development, others indicate that the boundary of the designated 'Area of Special Character' does not properly reflect the extent of the community that requires protection, or that the policy is unclear as to how the area will be protected. Some property and landowners in the Crockleford Heath area have however indicated that they would rather be part of the development than be surrounded by it. Essex Place Services have been commissioned to undertake a character appraisal of Crockleford Heath which can help inform any decisions going forward.

The proposed Rapid Transit System (RTS) has attracted a fair amount of interest with people keen to understand more detail around how it will operate, what route it will take and how 'modal shift' will be achieved. The separate report A.3 provides an update to the Committee on progress with the RTS and further work will be needed to fully understand the integration of this important piece of infrastructure into the final proposals.

Some respondents argue that the Draft Plan should have been accompanied by an updated Infrastructure Delivery Plan (IDP), viability assessment and other evidence for the consultation to have been meaningful. The evidence-base will continue to be developed to inform decisions going forward (see separate report A.2 for more information).

Others have raised concern about the level of detail contained within the Draft Plan, either that it is too aspirational and lacks key detail; or that it is too detailed and complex for the public to understand. Some also criticise the general approach to consultation and in particular the quality and limited number of maps and diagrams that were included. Officers are considering alternative ways to present and enable effective consultation on the material at the next stage in the process.



There remain a number of respondents that challenge the need for the Garden Community altogether and who argue that the development should not go ahead at all – but the majority of comments are constructive, with people keen to ensure the development is successful and genuinely meets with Garden Community principles.

People are particularly keen that the development is infrastructure led and does not result in existing infrastructure, services and facilities being overwhelmed; that it achieves a high level of energy efficiency; that it delivers high quality architectural and urban design; and that it protects existing historic and natural assets and incorporates high quality open spaces.

Officers are working on responses to each of the representations, which will be published as part of the evidence base when the Committee is presented with a new version of the Plan for its approval prior to a final round of consultation and submission to the Secretary of State (Regulation 19 stage) to begin the process of independent examination. The purpose of this report is to provide an initial overview of the main issues raised in the representations and to highlight areas where either Officers are likely to recommend changes to the Plan or where further work or evidence is required to inform a future decision on the best way forward for the final draft.

At this stage, the Committee is asked only to note the matters raised through the consultation exercise and to acknowledge that, given the nature of the comments, difficult decisions are likely to be required when it comes to agreeing a final version of the Plan for consultation and submission to the Secretary of State.

#### **RECOMMENDATION**

**That the Tendring Colchester Borders Garden Community Joint Committee notes the content of this report; the issues raised in response to the Regulation 18 consultation on the Draft Plan; and the various matters that Officers will be seeking to address in working towards a revised version of the Plan for consideration by the Committee at future meetings.**

## **PART 2 – IMPLICATIONS OF THE DECISION**

#### **DELIVERING PRIORITIES**

The Committee, at this stage, is only being asked to note this report and its contents and is not being asked to make a decision as to the future content of the Plan for the Garden Community. Members are however reminded that the Tendring Colchester Borders Garden Community is included in the adopted Section 1 of Local Plans, forms an important part of accommodating future housing and economic growth, and is a corporate priority for all three of the Councils represented on the Committee.

#### **RESOURCES AND RISK**

The Regulation 18 consultation exercise was carried out jointly by Officers from Tendring District Council, Colchester Borough Council and Essex County Council with support from the jointly-funded

project team which includes a specialist consultant from Hyas. The collection, registration and analysis of the representations has been, and will continue to be, carried out by this joint team.

The responses received will not only have a bearing on the next version of the Development Plan Document (DPD) but will also inform the next stages of the masterplanning process which, itself, will inform the DPD and the more detailed planning of the Garden Community. To date, the comprehensive masterplanning process has been led by Prior + Partners with specialist support on transport and infrastructure, managed through the joint project team with valuable input from the community and other stakeholders via a varied programme of engagement activities. The masterplanning work and other elements of the evidence base have been commissioned and will continue to evolve. This work is jointly funded by the Councils through agreed budgets.

The greatest risk posed by the responses received to the Regulation 18 consultation is the prospect that the Councils cannot reach an agreed position on how to reconcile the different positions of the community, the University and the lead developers or that whatever position is reached results in further objections, which will have to be resolved through the examination process by the government-appointed Planning Inspector. To minimise the potential impact of such a risk, it will be important that any decisions the Councils take in agreeing a way forward at Regulation 19 stage is informed by the best available evidence.

The nature of any objections might also pose a risk to the timetable for the overall delivery of future economic growth, new homes and associated infrastructure. Because Section 1 of the Local Plans 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. Furthermore, the grant of HIF funding for the Rapid Transit System and Link Road is predicated on the delivery of new homes at the Garden Community by March 2025, which could be impacted if significant delays are incurred. It should be noted that ECC is currently in negotiations with Homes England on extending the completion date of the A120/A133 Link Road.

## LEGAL

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) make provision for the operation of the local development planning system including, for the purposes of this report, regulations relating to the preparation, publication and representations relating to a Local Plan or Development Plan Document and the independent examination. At this 'preferred options' stage, Regulation 18 required the authorities to notify relevant bodies and individuals of the Plan being prepared and to invite them to make representations on the Plan and what it does, or ought to contain. The authorities are now required to take those representations into account in progressing the Plan to the next stage.

## OTHER IMPLICATIONS

**Area, Ward or Divisions affected:** The Garden Community development will affect land within both the district of Tendring and the borough of Colchester, associated ECC Divisions and the

corresponding local electoral wards of Elmstead Market, Ardleigh, Greenstead and Wivenhoe. However, the economic, social and environmental impacts of the development are likely to be felt, directly or indirectly, over a wider area – as reflected in its status as a strategic proposal in the shared Section 1 of the CBC and TDC Local Plans.

**Consultation/Public Engagement:** See the remainder of this report for information about the Regulation 18 public consultation undertaken for the Draft Plan for the Garden Community.

**Equality and Diversity:** The Draft Plan for the Garden Community contains policies aimed at promoting inclusiveness, equality and diversity. It will be important for the Councils to give careful consideration to all the comments received at the Regulation 18 stage and in drafting a revised version of the Plan for the Garden Community for the Regulation 19 stage, ensuring that the Plan continues to meet obligations around equality and diversity.

**Crime and Disorder:** The Draft Plan for the Garden Community aims to deliver a new community that promotes employment, skills, and training opportunities as well as health and wellbeing. Its policies require design and architecture to minimise the opportunities for crime and working with Essex Police in the drawing up of detailed plans. It will be important for the Councils to give careful consideration to all the comments received at the Regulation 18 stage and in drafting a revised version of the Plan for the Garden Community for the Regulation 19 stage, ensuring that the Plan continues to address issues around crime and disorder.

**Health Inequalities:** The Draft Plan has been drawn up through engagement with colleagues in the NHS and ECC Public Health, and policies within it promote health and wellbeing and embed the healthy new towns and active design principles. It will be important for the Councils to give careful consideration to all the comments received at the Regulation 18 stage and in drafting a revised version of the Plan for the Garden Community for the Regulation 19 stage, ensuring that the Plan continues to address issues around health inequalities.

## **PART 3 – SUPPORTING INFORMATION**

### **THE REGULATION 18 CONSULTATION EXERCISE**

Following the resolution of the Tendring Colchester Borders Garden Community Joint Committee at its inaugural meeting on 21<sup>st</sup> February 2022, public consultation took place on the Draft Plan for the Garden Community in line with Regulation 18 of the statutory plan-making process. The consultation period lasted six weeks from 14<sup>th</sup> March to 25<sup>th</sup> April 2022.

Acknowledging valuable input from various individuals, community organisations and the Community Liaison Group, the Draft Plan consultation endeavoured to make the process as simple as possible to engage with. The Draft Plan was presented in full in various digital and non-digital formats. Online it was also presented by individual chapter – allowing the public and stakeholders to either comment on the Draft Plan as a whole, or just by the chapters they felt most interested in.

Each policy in the Draft Plan had a short summary film, for those that wanted to understand the policies – without necessarily having to read them and all pages on the engagement website, where the Draft Plan Consultation was hosted, featured a glossary of terms and a ‘jargon buster’.

Drop-in events were hosted in Greenstead, Ardleigh, Elmstead Market and Wivenhoe to enable the public and stakeholders to speak to planners in advance of making any representations. Each area had two events, at different times of the day, to allow flexibility for those wanting to attend.

In addition to the drop-in events, video call or telephone call appointments were made available to ‘Speak to a Planner’.

Interested parties were invited to make written representations on the Draft Plan. This could be done via the engagement website, via email to either Local Planning Authority, via Freepost letter, or via paper comment form. In total, the Council received 193 individual submissions from a variety of stakeholders and interested parties raising around 620 comments on different aspects of the Draft Plan. Following the close of the consultation period, Officers have registered, sorted and read through the comments made and in June all of the representations were published in full on the Garden Community engagement website – enabling anybody to see what each of the respondents had said.

#### **KEY ISSUE: GREEN BUFFERS AND LAND SOUTH OF THE A133**

The most notable topic of comment, to which almost half of all the registered responses relate, is the agricultural land south of the A133 and what development, if any, might be allowed to take place in that location. The Committee Members will recall that the masterplanning work on spatial options published as part of the evidence base had considered three options proposing different approaches to development with varying implications for the land north and south of the A133. From those options, the Councils presented two preferred approaches put forward for consultation in the Draft Plan based upon Option 3 and a variation on Option 3 (the Option 3 Alternative) from the spatial options work. In the DPD, ‘Approach A’ proposed no built development south of the A133 and the protection of that area of land as a Strategic Green Gap (where only certain acceptable uses would be permitted); whereas Approach B identified some of the land south of the A133 (around 11 hectares) for the expansion of activities at the University of Essex, with the remainder of that land still protected as a Strategic Green Gap. Both approaches were considered to provide green buffers (in addition to open space beyond the site boundary and urban edge of Wivenhoe), but of varying extents.

These alternative approaches to development in and around the southern areas of the Garden Community area of search have attracted a significant number of representations from residents – mainly in objection to Approach B and development south of the A133; together with representations also from Wivenhoe Town Council, Alresford Parish Council, the Wivenhoe Society and other community organisations (including the Community Liaison Group). Natural England and the Essex Wildlife Trust have also expressed preference of Approach A over Approach B. The main concerns

raised about development south of the A133 are about unrestricted sprawl of development towards Wivenhoe and the potential for future coalescence (merging) of the Garden Community with the existing town and damage to its individual character and countryside setting. There are also concerns about the wider impact of the development on Wivenhoe's infrastructure and traffic on the local road network.

The University of Essex and Latimer/Mersea Homes (the lead developer for the Garden Community and who control the majority of the land), have objected to Approaches A and B and argue that more (not less) land, including land south of the A133, is going to be required for development.

The University's representation argues that the Draft Plan makes insufficient land available to meet its ambitions for future growth and for the Garden Community to meet the full potential for growth in research, development and knowledge-based industries to bring new jobs to the area for both future and existing communities. The Draft Plan makes provision for 11 hectares of land for University expansion and 4 to 8 hectares for knowledge-based employment activity – however it is the University's assertion that up to 35.5 hectares for its own expansion and 13 hectares for associated knowledge-based employment will be required to meet its ambitions. The University's preference for knowledge-based employment land is for it to be located north of the A133 with strong pedestrian connectivity across the A133 to the existing Knowledge Gateway.

Latimer/Mersea Homes, the lead developers, is more explicit in its objection to the Councils' preferred Approach. It argues that neither Approach A nor B will make sufficient land available to accommodate the 7,500 to 8,000 homes suggested in the Draft Plan at an appropriate density that incorporates the flexibility needed to protect key environmental features and assets. To resolve this matter in part, the developer argues that land south of the A133 is needed for development and that it would accommodate both the land requested by the University for its expansion (for student accommodation), land required for knowledge-based employment, and for additional sports facilities associated with the University. In total the developers are requesting up to 48.5 hectares of land to be included south of the A133 and have proposed an alternative key diagram within their representation to accommodate the various uses.

The Community Liaison Group do not support Approach B and put forward an alternative layout to accommodate knowledge based employment and University expansion north of the A133, but further away from the ridgeline at the top of the Salary Brook slopes.

Clearly there are a number of opposing positions on the future development of land in the southern part of the Garden Community area of search and south of the A133 from equally important stakeholders, each with a critical interest in the project – namely:

- 1) the neighbouring Town and Parish communities – which will be most affected, physically and environmentally by the development and who are understandably concerned about its impacts;

- 2) the University – which is a key provider of employment and an important driver of economic activity in the local area and the wider region which has ambitious plans for the future that (if delivered in full through the Garden Community project) could strengthen the contribution the University makes to the local economy and the job prospects and life opportunities for the wider population and future generations; and
- 3) The lead developer Latimer/Mersea Homes – who control the majority of the land, will be responsible for bringing forward more detailed proposals and which, to a large extent, will shoulder the burden of responsibility of delivery on the ground that meets the community's high expectations and which will therefore be anxious to ensure the development will be economically viable.

Officers are not in a position at this point in time to make any recommendation to the Committee as to how these three positions are best reconciled. Instead, Officers are to give these issues further consideration and will consider the findings of additional evidence gathering including further work on masterplanning & landscape capacity, the economic potential, viability and robustness of the University of Essex's growth forecasts and land requirements to ensure that any decision going forward is properly informed by evidence.

#### **KEY ISSUE: SALARY BROOK**

From the responses received, there is general support across the board for the establishment of a Country Park at and around Salary Brook Local Nature Reserve and Churn Wood. The consultation responses have however raised a considerable number of comments about the prospect of development potentially extending on to the sensitive slopes around the brook - a particular issue in regard to Approach B and knowledge-based employment development. Some respondents have called for a 1.5km gap between Greenstead, Longridge and the Garden Community development and some others support an alternative spatial strategy as suggested by the Community Liaison Group (CLG) – a variation of Approaches A and B which seeks to give more protection to Salary Brook and restrict, to recreational facilities, any development south of the A133.

Part of the rationale around Approach B and the additional land being identified for knowledge-based employment on the Salary Brook slopes was in response to the University's preference for any future development to have a direct relationship with the existing Knowledge Gateway and a closely aligned means of access. However, in the University's representations it acknowledges that the land adjoining Salary Brook is sensitive in environmental, landscape and topographical terms. There is an acceptance that the Approach B allocation would be harmful to the landscape and environmental attributes of Salary Brook and would be highly challenging from a technical construction perspective given the steep topography. The University's preference remains for knowledge-based employment land to be located north of the A133 but with a greater emphasis on the size of site and achieving good pedestrian connectivity with the existing Knowledge Gateway, allowing for the Salary Brook slopes to be protected from development and incorporated into the Country Park.

The lead developers, Latimer, are also sensitive to concerns over the impact of development extending towards Salary Brook and in its proposed approach, seeks to avoid any significant development in that location by directing knowledge-based employment land south of the A133. As explained in this report above, any decisions as to the future use of land south of the A133 will need to be informed by future evidence-based work.

Officers' initial consideration of the representations do however suggest that Approach B in respect of the knowledge based employment land extension onto the slopes of Salary Brook should not be carried forward in its current form. Protecting the sensitive slopes and setting of Salary Brook is likely to be a key priority of any revised version of the Plan going forward, but the implications for land south of the A133 and the preferred location for knowledge-based employment land will require further consideration.

### **KEY ISSUE: CROCKLEFORD HEATH & BROMLEY ROAD**

The Draft Plan identifies an Area of Special Character around Crockleford Heath with the aim of protecting its rural, loose-knit and sparsely developed settlement form and its distinctive and attractive network of green lanes and small fields. Whilst the designation seeks to recognise its importance and provide a degree of protection, the proposal has raised concerns – with many arguing that the protection being offered is insufficient.

A number of residents, including those represented by the Crockleford and Elmstead Action Group (CEAG) have raised concern that so much emphasis has been given to protecting Wivenhoe and Elmstead Market from coalescence, that it has resulted in having to plan for a higher density of development, which is to the detriment of Crockleford Heath and the other scattered communities that fall within the area proposed for development.

It is also suggested that the designation defined on the Key Diagram for the area of special character is not a true reflection of the community requiring protection and is smaller than it should be – focussing only on the properties around Chapel Lane. Some suggest that the protected area should extend a lot further to Bromley Road, along Chapel Lane and elsewhere to ensure it covers a wide enough area to enable the settlement to retain its identity. There are suggestions that housing proposed in the Crockleford Heath location could be accommodated by fractionally increased densities across the other residential areas which would also lower the landscape impact of the Garden Community and help to promote sustainable travel. Others suggest a greater focus of development around the University to relieve the pressure on the Crockleford Heath area.

As well as those wanting to achieve maximum protection for Crockleford Heath, there are some who own property and land who would rather be part of the development, than be completely surrounded by it or excluded from it.

Officers already acknowledge that further evidence is needed to inform the approach to the Crockleford Heath Area of Special Character in relation to its boundary and the key features and

characteristics that the policies in the Plan seek to protect. Essex Place Services have already been commissioned to undertake a character appraisal of the area and local residents will be invited to have an input into that assessment.

## **OVERVIEW OF COMMENTS RECEIVED**

The following is a very initial overview of some of the issues raised in relation to different policies in the Draft Plan for the Garden Community. Note that this is presented as a summary only, and does not convey all the separate points that have been raised, or the detailed elements which stakeholders and individuals have commented on. All of the points that have been made will be considered and responded to as the Plan moves forward.

### **Policy 1: Land Uses and Spatial Approach**

- Many objections to development south of the A133 and Approach B (explained in more detail above).
- University and Lead Developer suggesting neither Approach A nor B provides enough land for the development that is needed.
- Some support for the concept of three distinct but interconnected neighbourhoods within the Garden Community, with suggestions that the focus should be on delivering just one neighbourhood within the period to 2033.
- Lead developer, Latimer/Mersea Homes, questions the need for three neighbourhoods and three separate neighbourhood centres, suggesting that the number and location of such neighbourhoods and centres should emerge from further masterplanning work.
- General support for Strategic Green Gaps with suggestions that these should be widened in certain locations and given greater protection. The Lead Developer, Latimer/Mersea Homes, questions the need for the Strategic Green Gap policy – suggesting that it is not necessary.
- Concern about development in and around Crockleford Heath (explained in more detail above), requesting a ‘buffer’ between existing and proposed development and suggesting that the designation does not properly reflect the extent of the community.
- Strong support for the Salary Brook Country Park – but major concerns about Approach B and the possibility of development on the slopes around the brook (explained in more detail above).
- Some challenge to the need for an industrial business park on the A120, suggesting that an industrial park does not fit with the Garden Community principles and that it could have an adverse impact on air quality, traffic and the setting of listed buildings. The lead developers Latimer/Mersea Homes question the overall amount of industrial land, but also indicate additional areas for industrial uses east of the Link Road.



- Some question about the need for a Gypsy and Traveller site and its intended location. The Lead developer, Latimer/Mersea Homes, suggests that its location and size should be determined through future masterplanning work and not specified in the DPD.
- General support for Park and Choose facilities but many broader questions about the Rapid Transit System (RTS) and how it will operate.

### **Policy 2: Requirements for all new development**

- Some questions as to whether the policy is needed, as it repeats matters already covered elsewhere in the Draft Plan.
- There could be possible tensions in addressing each part of the policy, there could be a hierarchy.
- Policy needs to be more robust and include specific details of what must be provided.
- Some questions over the relationship with policies from CBC and TDCs Section 2 Plans and how these all fit together, and/or cover everything that is required.
- Need to include environmental standards to minimise the impact of development on the climate and surrounding communities.
- Need specific protections for residential amenity of existing properties.
- Important to consider surveillance and construction site security.
- Policy needs clarity about how impacts on heritage assets will be identified and protected.

### **Policy 3: Nature**

- Support for a country park and protecting land and woodland around Salary Brook Local Nature Reserve and objection to any development on Salary Brook, including the slopes.
- Support for the requirement for a Green Infrastructure Strategy, a multi-functional green infrastructure network and the creation of green infrastructure connections beyond the site boundaries.
- Building and design should be with the environment and climate change in mind.
- Concerns were raised that the existing nature on this entire site will be irreversibly damaged. Some questioned the overall principle of development and that it should not take place on agricultural land.
- The policy should set a more aspirational minimum target for biodiversity net gain and net gain should be delivered on site within the Garden Community. Higher targets were suggested by several stakeholders.
- The policy should set a more ambitious target for tree canopy cover – a higher canopy cover target was suggested.
- The policy should make reference to Natural England's Accessible Natural Greenspace Standards (ANGSTt) and commit to a minimum amount of Suitable Accessible Natural Greenspace (SANG) provision.

- Details and targets for the amount of green/ blue infrastructure should be included in the policy.
- The policy should require green roofs.
- The Welshwood Park Residents Association and several members of the public propose the creation of a nature belt / wildlife corridor around north-east Colchester by linking Churn Wood, Welsh Wood and Bullock Wood.
- Policy 3: Nature and Policy 8: Sustainable Infrastructure should be closely linked to gain the best opportunities for biodiversity.
- There is a gap in terms of lacking a policy on grey and black water treatment specifically. A decision as to the most sustainable methods of managing wastewater should be included in the DPD.
- There should be more to promote urban wildlife such as hedgehog holes in garden fences, wildlife ponds.

#### **Policy 4: Buildings, Places and Character**

- Densities and tenures (including specialist housing) across the Garden Community will need careful consideration both in terms of masterplanning and viability. Requirement for all new dwellings to be built to Part M4(2) may be too onerous and will need to be revisited.
- Masterplans and Design Codes should be informed by use of design review and assessment frameworks such as the National Design Guide, National Model Design Code, Building for a Healthy Life and Building with Nature, Secured by Design, Lifetime Neighbourhoods and Healthy Streets etc.
- Height restriction will need to be incorporated into masterplan and design codes to ensure that buildings are sympathetic to the existing landscape and local context.
- A question was raised about whether the policy can require design coding to cover the full extent of the existing University and proposed expansion.
- There needs to be further clarity and detail on stewardship and management of community assets.
- The Garden Community neighbourhoods should be focussed around hubs and community facilities and services.
- Creative Colchester Partnership have suggested collaboration on a cultural placemaking and commissioning strategy. Collaborative working with all key stakeholders and community groups was considered to be the preferred approach.
- The integration of new and existing communities, local assets, strategic green buffers as well as renewable energy, low carbon construction techniques, smart city and other climate change design and building considerations will be fundamental to achieving garden community principles and place making Affordable housing must be of a high quality, genuinely affordable and focussed on addressing the needs of those on the Councils' Housing Waiting List.

- Gypsy and Traveller Needs Assessment may be needed to support requirements.
- The Councils will need to understand the level of Student Housing required in terms of both location and numbers.
- Churches and other places of worship will be important to fostering good community relations.
- There needs to be clearer targets and objectives for managing car parking and private vehicle ownership and achieving a balance with the need to promote walking and cycling and other methods of active travel.
- Additional work to consider landscape and visual impacts would be required to support the Heritage Impact Assessment.

### **Policy 5: Economic Activity and Employment**

- Mixed views on where the Knowledge based employment land should be located – with a preference overall for it to be north of the A133 and away from the green buffer to Colchester.
- Conversely a view from the developers, Latimer/Mersea Homes, that a larger area of land is needed to accommodate the overall scale of development and therefore the University and knowledge based employment uses should be located south of the A133.
- Some questions were raised about the University of Essex needs for future growth with requests for more detailed justifications/analysis to underpin the forecasts, together with a plan/proposal of what would be envisaged.
- Quantify how the Employment and Skills Plan can deliver benefits to local communities.
- The developers indicate that the requirement for 25ha is based on the overall scale being up to 9,000 homes, if fewer homes are built there should be a commensurate reduction in employment land. However, the developers also suggest greater employment land through a combination of an enlarged industrial area to the north and east of the Link road, and the provision of knowledge based employment to the south.
- The developers question the feasibility of delivering the first phase of business accommodation in each employment area with the delivery of housing.
- Consideration should be given as to whether an element of home working should be accounted for.
- More flexible spaces are needed for the creative industries.
- Employment for disadvantaged people should be catered for.
- Many people living in the Garden Community will be employed elsewhere or work from home.
- The market should decide the diversity of jobs created by the Garden Community.
- More detail/ clarification is needed on the overall approach to employment and how it may provide new local economic opportunities.

## **Policy 6: Community and Social Infrastructure**

- There was support for multi-functional community buildings and spaces.
- Support for the commitment to community-centred, long-term stewardship and recognition that further work is needed to make sure the right model is chosen. Some concerns were raised that there was insufficient information about the approach to stewardship.
- Wide ranging sports provision and green corridors and walkways were identified as being particularly important to promote healthy living.
- Development must meet the on and off-site infrastructure needed to support the development and mitigate the impact of development on the existing community and environment.
- Infrastructure must be delivered first as a key principle.
- Concern regarding the lack of detail on infrastructure requirements and its phasing. Several stakeholders stated that an Infrastructure Delivery Plan was needed to provide more information.
- The Garden Community presents a great opportunity to innovate the delivery of schools.
- Some indicated a need for a new special educational needs (SEN) school.
- Concern that there are no specific plans or commitment from the NHS to build a purpose-built health centre within the whole of the Garden Community.
- A serving church presence in the new community would support the emerging community from its beginnings.

## **Policy 7: Movement and Connections**

- General support for the vision outlined in this chapter and ensuring active and sustainable travel is quicker and easier to use than the car - Active Design principles should be followed.
- Strong support for safe walking and cycling routes - dedicated and designed in line with latest best practice - 'no compromises' and connected with external routes and linked with existing communities.
- Some comment that car use should be discouraged – that this community needs to be different.
- Some comment that policy should have a stronger vision and focus on innovation, it should be looking ahead to what can be expected of transport norms in 30 years.
- Some support for the notion of each of the three neighbourhoods being served by their own connection off the Link Road to minimise through (short-cutting) traffic between the three areas.
- Some views that modal split targets should be ambitious and in favour of active and sustainable travel.
- Lead developer, Latimer, consider that approach to monitoring impacts of transportation policy requirements be flexible given that in early phases, the delivery of the Link Road close to the outset of occupation will create a significant challenge for delivering sustainable travel options with comparative (or improved) journey times over the car.

- Some views that policy is penalising large scale (norm) car use and ownership through parking and travel restrictions.
- Some question that the policy presupposes dramatic change in behaviour to achieve the modal split ambitions.
- Some concern that existing residents will still be reliant on their car; that development will lead to more traffic on already congested network with impacts on environment and air quality.
- Concern over traffic 'rat-running' on Bromley Road and that access from the Garden Community to Bromley Road should be limited.
- Some concern that the proposals outlined are Colchester centric and does not give wider consideration to access to/from other nearby existing communities. Comment that Plan should also give more consideration to wider integration and connections beyond the Garden Community and Colchester.
- View that there is a need to ensure that vital transportation infrastructure is delivered early/ahead of development to prevent pressure on existing communities - active travel infrastructure should be in place before houses built/occupied; schools should be in place at an early stage to avoid residents needing to travel to schools some distance away; and RTS should be delivered in early phases of the project to ensure first inhabitants not being reliant on private car transportation.
- Concern regarding lack of detail and phasing of transportation infrastructure - the Plan should be accompanied by an IDP, and transport evidence base and strategic modelling should be available to support policy and allow 'reality check'. Some comments that more detail is needed on 'aspirational' wish lists contained in the policy.
- Lead developer, Latimer, consider that there is a need for flexibility within the policy given the time over which the development will be constructed, particularly avoiding commitment to specific technological solutions that may be replaced with more effective alternatives.
- Link Road should not act as a barrier to travel across and within the Garden Community.
- Any newly constructed walk/cycle routes should be additional to, not substitutable for, the continuity of a natural green corridor; and there is a need to ensure that measures consider and are not detrimental to those with mobility issues.
- Many questions on detail on RTS routing and how it will operate. Comment that a firm position on operation should be a feature of the Plan.
- Comments that public transport links are needed to other public transport interchanges in wider area.
- Incentives should be in place to make public transport a preferable choice for residents over the car.
- Should have enough parking for houses, not like new estates where everyone is parked on roads and pavements. But also comments that number of cars per household should be limited.
- Provision should be made for secure parking for residents with work vehicles.
- Should establish minimum standards for secure cycle storage suitable in residential units.
- Provision should be made for electric vehicles and avoid influx of charging cables across pavements.

- Some views that proposals should not penalise disabled drivers and those dependant on their vehicles.
- Parking should also include facilities for motorcycles and mopeds.
- Firmer support should be provided for car sharing schemes.
- Delivery of goods and services needs to be considered. Some views that receiving deliveries should be as easy and low impact as possible.
- Some support for Link Road but also some comments that the case for Link Road has not been made and is contrary to Garden Community principles and Climate Emergency. New roads lead to increase in traffic; if trying to discourage car use – why build a new road.
- Some comments that Link Road should not be a through-route and green cordon concept has been ignored.

### **Policy 8: Sustainable Infrastructure**

- There was broad support for the aspirations and expectations in the policy. This project should be in the vanguard of sustainable building.
- Some stakeholders raised issues with the level of details, including costs, which should be included about how the aspirations and expectations will be achieved and will be viable.
- District heating, energy generation and community generated energy were considered as opportunities which could be included in the plan.
- There should be a policy specifically addressing the use of digital and smart technology in the Garden Community.
- Green infrastructure should be better referenced in the policy, as there are clear links between the provision of certain infrastructure (such as in relation to on site water management) and the provision of green spaces.
- Concern that there are no plans for a new sewage treatment plant and it is not clear how water will be supplied.

### **Policy 9: Infrastructure Delivery, Impact Mitigation and Monitoring**

- An Infrastructure Delivery Plan (IDP) needs to be published setting out the infrastructure required for the Garden Community and phasing of this. Viability appraisals must be published to cross-check that the requirements set out in the IDP are deliverable.
- There were some questions about how will housing, including affordable housing, and business rates be split between the Councils beyond the plan period.
- How will assets be managed and maintained long-term and which Council will be responsible for this.
- Long term stewardship and ongoing monitoring were considered by many to be critical to the success of green infrastructure and biodiversity proposals.
- Further monitoring indicators are required such as indicators to monitor modal shift, healthcare, water, biodiversity, behaviour change and the impact on heritage assets and their setting.

### **Comments on the Sustainability Appraisal (SA)**

- Clarification is required about terminology in the report.
- The impact of the Bellway development should be included in the cumulative assessment.
- The lead developers Latimer/Mersea Homes considered that the SA should appraise the option promoted by them in their representations as a reasonable alternative.
- Some considered that the sustainability work does not go far enough and should reflect local climate emergencies.
- Some questioned why the SA didn't use the same objectives the Section 1 work did and doesn't have any logical progression from the latest sustainability assessment.
- SA Objectives related to health should be expanded.

### **APPENDICES**

None.

### **BACKGROUND PAPERS**

All representations received can be viewed via: [Comments from the Draft Plan Consultation | Creating a Place for Life \(tcbgardencommunity.co.uk\)](#)

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# Agenda Item 7

## TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

18 JULY 2022

### A.2 THE DRAFT PLAN FOR THE TENDRING COLCHESTER BORDERS GARDEN COMMUNITY EVIDENCE BASE UPDATE

(Report prepared by Gary Guiver (Tendring District Council), Karen Syrett & Shelley Blackaby (Colchester Borough Council) & Matthew Jericho (Essex County Council))

#### PART 1 – KEY INFORMATION

##### **PURPOSE OF THE REPORT**

To provide an update on the Evidence Base required for the Tendring Colchester Borders Development Plan Document (DPD) including evidence already gathered and further work that is underway.

This report relates to Paper A.1 and sets out how Officers are responding to certain points raised via consultation where additional evidence is required. This paper does not require a decision and is for noting by the Joint Committee.

##### **EXECUTIVE SUMMARY**

###### **Key Points**

- In order for the DPD to be found sound via an independent examination by the Planning Inspectorate, it will need to be accompanied by a comprehensive and robust evidence base that can support and provide justification for proposed policies and requirements.
- The Garden Community proposals already benefit from an extensive evidence base which was subject to full scrutiny leading it to be found sound and included in Section 1 of the Local Plans.
- The Draft Plan that was published for formal public consultation in March 2022 was supported by a number of additional evidence base documents. This set of background documents was published and made available during the consultation period.
- Officers were aware that this initial evidence base did not address all matters and that additional evidence and background work would be required to support a final version of the Plan.
- Various representations on the Draft Plan also identified the need for additional evidence to be prepared to support the Plan and its policies.
- As such, a number of additional studies and other related work is underway across a number of themes and technical areas of work. This additional evidence will be published and made available to the Joint Committee as it becomes available and aligned with future decision making on the Plan.

## BACKGROUND

### Previous work (Section 1 evidence)

Proposals for the Garden Community have been emerging over a number of years. As part of the examination and consideration of Section 1 of the Local Plans, there was considerable scrutiny of the principle, scale and nature of development in this location. A wide range of evidence was made available to the Planning Inspector, both produced by the Councils and by a wide range of other stakeholders including local community groups. This initial set of evidence was prepared over a period from circa 2016 to 2020, with formal hearings in 2018 and 2020. This provides an initial set of information and evidence relating to the proposal, including considerable work on sustainability, infrastructure and viability. This evidence ultimately supported the Planning Inspector's final decision that Section 1 of the Local Plans was found sound and has now been adopted by the Councils.

### Additional Evidence Base documents published alongside the Draft Plan

The Draft Plan was published to enable full and open consultation across suggested alternative land use approaches and a range of potential policies. It was recognised by Officers that the outcomes of the Regulation 18 consultation would be needed to help inform and evolve the way forward, and that additional evidence would be required to support any final DPD suitable to be submitted for examination. The following initial set of supporting studies and evidence base documents were prepared and made available alongside consultation on the 'Draft Plan' earlier in 2022.

- **Engagement Reports.** Two reports were published that set out a summary of all engagement activity undertaken prior to the preparation of the Draft Plan. The first report looked at the feedback received via the various digital and non-digital engagement activities led by the Councils, and the second related to engagement activity that inputted to evolving the masterplan vision and spatial land use options.
- **Tendring Colchester Borders Garden Community Masterplan (Baseline, vision & options).** This work presented a vision and preliminary masterplan options for the Garden Community and comprised of three main pieces of work: a 'Baseline Report' providing an analysis of key issues, opportunities and constraints influencing the site; a 'Strategic Vision' setting out a vision and a set of strategic development principles and objectives; and a third report that considered alternative 'Spatial Options' for the Garden Community.
- **Transport and Movement Framework.** This work considered a variety of aspects relating to the local and strategic transport and movement network. The work was presented in 2 parts. Part 1 brought together a baseline appraisal of transport and movement and considered a range of good and best practice from the UK and abroad. Part 2 developed a vision for transport and movement, including a set of principles and policies to promote sustainable movement patterns.
- **Economic and Employment Study.** This study presented an assessment of the potential economic growth and job creation that could be achieved through the Garden Community and the opportunities to maximise the opportunities for local people and the wider region. The study included an analysis and options for the location, format and potential end-users of

employment uses envisaged as part of the development. It was published as a 'draft' in recognition that further work would be needed going forward.

- **Heritage Impact Assessment.** This assessed the existence and significance of heritage assets and considers the impact of the development on the historic environment.
- **Preliminary Archaeological Assessment.** This considered the archaeological potential of land within Colchester Borough pertinent to the scheme and included initial advice on the likely level of archaeological information that would be required over future stages.
- **Sustainability Appraisal.** A Sustainability Appraisal (incorporating Strategic Environmental Assessment) was prepared to consider the likely effects of the Draft Plan and a consideration of reasonable alternatives.
- **Habitats Regulations Assessment (HRA) Screening Report.** This was prepared to comply with Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended). The assessment considered effects on the integrity of European/habitats sites and identified likely significant effects to be considered in the next stage of the HRA (the appropriate assessment). The work includes a wintering bird survey.
- **Environmental Audit Survey.** This work provided a review of the landscape and ecology within the broad location of the Garden Community. A similar piece of work was carried out in 2015 and this latest study was a review and update to capture any relevant changes.
- **Low / Zero Carbon & Smart Energy Appraisal.** A study that considered how Low / Zero Carbon technologies could be incorporated as part of the approach to the site in a way that could maximise efficiency and reduce carbon.

### **Further Evidence Gathering under way for the Final Plan**

Report A.2 presented to this Committee has provided an overview of the representations received in response to the Regulation 18 consultation on the Draft Plan. The purpose of the report was to provide Members of the Committee with an initial overview of the main issues raised in the representations and to highlight areas where either Officers would be likely to recommend changes to the Plan or where further work or evidence was needed to inform a future decision on the best way forward.

The report highlighted a number of issues where decision-making will need to be informed by more robust information and evidence. The following additional studies are being compiled and will be made available to Members of the Committee and Officers during the evolution and finalisation of the Plan. The following additional work will consider all relevant issues and provide appropriate justification for the final approach.

### **Approach to Land Use & Type of Place**

Various issues and concerns have been raised about the proposed boundary of the Garden Community, the scale and locations of certain land uses, and the nature of place that is being

proposed. The following work is being taken forward which will provide additional evidence to enable robust decisions to be taken:

- **Strategic Framework/Masterplan & Strategic Design Guide/Code.** The approach to the Garden Community will continue to evolve and become more detailed through an ongoing masterplanning process. To date, work on masterplanning has considered the baseline position (including constraints and opportunities analysis), the overall spatial vision and some initial land use and masterplan options. Going forward additional strategic masterplanning work will be undertaken by the Councils to illustrate, justify and set the basis for land use proposals to be set out in the Final Plan to be submitted.

It is important to acknowledge that at this stage of planning for the Garden Community, it is not possible (primarily due to the extent, cost and time required to undertake all of the detailed technical site survey and design work that would be required - which is the responsibility of site developers to inform their planning applications), for further masterplanning and related policies in the DPD to contain precise details of design, layout and appearance of the new buildings and spaces that will be delivered. Instead, the additional strategic masterplanning work illustrate how development could be brought forward and provide further direction to developers to enable them to prepare appropriate and more detailed proposals.

The Draft Plan (Policy 1) included specific wording to require a comprehensive approach to development that meets with the Councils' high expectations for design and quality and the key principles that underpin the development of Garden Communities. It set out the requirement for proposals seeking planning permission to adhere to a 'Strategic Masterplan' and 'Strategic Design Code' for the whole site and more specific and detailed 'Neighbourhood Masterplans' and 'Neighbourhood Design Codes' for the relevant neighbourhoods. The draft Plan set out that these Masterplans and Design Codes will need to ultimately be approved by the Councils before planning applications could be approved.

The Councils have commissioned additional work to start to develop additional masterplanning and design coding/guidance. This is being produced to illustrate more widely how it is envisaged that the Garden Community will be developed and to ensure that there is a robust and sound evidence in support of the DPD. It will need to remain separate to the DPD and be illustrative in nature until such time as conclusions can be drawn from the examination of the DPD as this may result in modifications to policies, land uses or areas. The work can then be reviewed, updated and taken forward for additional consideration, potentially to be adopted as some form of supplementary planning policy to guide the determination of future planning applications.

- **Crockleford Heath Area of Special Character Appraisal.** The Draft Plan identified an 'Area of Special Character' at and around the settlement of Crockleford Heath, aimed at safeguarding its distinctive rural character. The Councils have commissioned additional work to consider this area in more detail and provide the appropriate level of guidance and base line analysis to develop a character appraisal, including landscape, historic and built environment appraisals and a design strategy for Crockleford Heath.

- **Land South of A133 assessment.** Some focussed work will be undertaken to consider the sensitivity and visual impact of development options south of the A133 both within and directly adjacent to the Area of Search, including consideration of the capacity of growth within the existing University of Essex campus
- **Economic Study Update.** Further work will be undertaken related to the Economic and Employment Study to update and evolve the advice the Authorities on the potential means of maximising the positive economic and employment generation opportunities at TCBGC and provide an analysis and options for location, format and potential end-users of the employment allocations proposed for the site. Additional related and specialist work will be undertaken to consider the growth potential of the University of Essex, both in terms of student numbers, research potential and wider economic relationships.

### **Approach to Nature & Open Space**

Additional work is required to consider elements related to nature and the type/scale of open space. The following work is being taken forward which will provide additional evidence to enable robust decisions to be taken:

- **Environmental Audit & Biodiversity Net Gain Assessment.** An assessment is being undertaken to consider the potential to secure Biodiversity Net Gain, through a comparison of the habitats within the site prior to development activities (the 'baseline') with those proposed through the proposed spatial approach and land use proposals. The calculation will be undertaken using the 'Defra Metric' Biodiversity Net Gain calculator.
- **Tendring and Colchester Councils, Indoor Sport, Playing Pitch and Open Space Strategies** have been commissioned and will set out an over-arching strategy for the two Council areas individually and collectively, with a particular focus on the sport and open space needs and issues related to the Garden Community. The work will include a review of all facilities in the Councils' areas, including council-owned facilities and privately-owned facilities, where appropriate. In particular, the audit, assessment and recommendations should have regard to the facilities currently available at University of Essex Campus which adjoins the area of search for the Garden Community, and the potential to create or cooperate on new facilities that could serve both the needs of the university itself and the future residents and other users from the Garden Community itself.

In addition, work on the strategic masterplan and design guidance will consider the overall approach to land uses including suitable protection and enhancement of natural features & assets across the site.

### **Approach to community related matters**

Other issues and concerns have been raised about key social and community infrastructure, and the ability to deliver on Garden City principles. The following work is being taken forward which will provide additional evidence to enable robust decisions to be taken on the following topics:

- **Health Impact Assessment / Topic Paper.** Further work is underway to ensure the TCB Garden Community is designed and delivered in ways that will enhance the quality of people's lives both from the outset and in the long term by positively addressing and innovatively responding to the fundamental elements that influence the social determinants of health and wellbeing.
- **Stewardship Topic Paper (Update).** Officers will prepare an update to the topic paper that was prepared in relation to the examination of Section 1. This will provide additional up to date information relating to the options for stewardship for the Garden Community, including an overview of the importance of long term stewardship to the project; a summary of options for long term stewardship that can be considered; their implications and potential approaches to decision making on any final preferred model/approach.

### **Approach to infrastructure, phasing and viability**

A number of issues and concerns have been raised about the overall approach to infrastructure, its phasing and the viability/deliverability of the proposals. Whilst the Draft Plan included a number of specific infrastructure requirements within the separate policies, this work will now need to be updated and drawn together to enable all policy expectations and requirements to be clearly set out and justified. The following work is being taken forward which will provide additional evidence to enable robust decisions to be taken on the following topics:

- **Transport Planning.** Further work will be required to provide an update on strategic infrastructure works coming forward via the Housing Infrastructure Fund (A120-A133 Link Rd and Rapid Transit System). Additional work is also required to frame the approach to mode share, confirming transport related infrastructure requirements alongside supporting transport measures (on and off site), and identifying wider opportunities and dependencies.
- **Integrated Water Management Strategy Stage 2.** A Stage 1 Integrated Water Management Strategy (IWMS) was carried out to support the Section 1 Local Plan. A Stage 2 IWMS has been commissioned which will specifically identify integrated water management options and strategies for the Garden Community. It will feed into the developing masterplanning and identify a range of options for how water and flood risk can be managed in an integrated and sustainable way.
- **Infrastructure Delivery Plan (& Phasing)** Officers are in the process of drawing together all information on infrastructure requirements and will prepare an Infrastructure Delivery Plan which will show what infrastructure is required and how it will be provided (e.g. co-location, etc); who is to provide the infrastructure; how will the infrastructure be funded and when it will need to be provided to align with the phasing of the Garden Community. The IDP will draw from responses from infrastructure providers in response to the Reg 18 consultation and will be produced in collaboration with a wide range of stakeholders, strategic infrastructure providers including Essex County Council.
- **Viability Study.** The site has been subject to detailed consideration of viability via Section 1, and Officers continue to be supported by viability expertise during the preparation of the DPD.

The Councils are in the process of commissioning additional expert property consultants to provide an update to the viability work in accordance with the latest information, assumptions national policy and guidance. It is intended that such expertise would be available to support more broadly with viability discussions with site developers in due course.

Other evidence studies and background work will also come forward and be updated as the DPD progresses, such as ongoing work on analysing engagement feedback and the evolution of work on the Sustainability Appraisal, Heritage Impact Assessment and others.

#### **RECOMMENDATION**

**That the Tendring Colchester Borders Garden Community Joint Committee notes the update on gathering additional evidence to support the preparation of the DPD.**

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# Agenda Item 8

## TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

18 JULY 2022

### A.3 **RAPID TRANSIT SYSTEM UPDATE**

(Report prepared by Ashley Heller, Head of Transport for Future Communities (Essex County Council))

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

To provide an update on the progress toward delivering a Rapid Transit System (RTS) serving the Tendring Colchester Borders Garden Community and wider Colchester area.

Whilst the Joint Committee Terms of Reference do not cover decision making on the RTS (which is being brought forward by Essex County Council working closely with partners) it is recognised as an important component of the overall transport infrastructure requirements related to the Garden Community. This report does not require a decision and is for noting by the Committee.

##### **EXECUTIVE SUMMARY**

###### **Key Points**

- Since the award of the Housing Infrastructure Fund (HIF) in 2019 Essex County Council (ECC) has been developing and implementing infrastructure to allow for the running of Rapid Transit style public transport services (RTS) from Tendring Colchester Borders Garden Community to the wider Colchester area.
- One of a range of sustainable transport measures, the RTS is planned to be delivered by 2024/25, that is in advance of the first occupations at the Garden Community, reflecting an 'infrastructure led' approach to development with the objective to ensure the best possible usage of the RTS by new residents, thereby reducing the impacts of the housing on the existing road network.
- The RTS infrastructure is funded by the HIF and the scheme is being delivered in phases which ultimately link the Garden Community with the existing Park & Ride in the north of Colchester, via the Town Centre. Within the Garden Community itself it is intended that the RTS runs on a priority corridor provided and funded by the developer on a route alignment which best supports patronage, journey times and reliability of the service.
- The detailed design of the infrastructure outside of the Garden Community is coming forward in phases, with the first phases of the scheme shortly going out for tender with the view to secure a contractor to start work in 2023.
- The RTS will also include a Park & Choose facility at or adjacent to the Garden Community and potentially mobility hubs and high quality 'halts'. The details of these facilities are being developed by ECC and will be subject to further engagement with partners.

- The HIF, while funding infrastructure, does not fund the actual operation of the RTS service itself. As such ECC has now initiated a detailed 'operational planning' workstream to identify the operational parameters of the future RTS service including issues such as vehicle types, service frequency, branding, and hours of operation. This work will be brought forward in more detail in the context of a phased 'business plan' approach, including the issues around how any operational deficit may need to be funded before they come into commercial viability. Such matters are outside of the terms of reference of the Joint Committee, but it is understood that the success of the RTS is an important component of the overall transport requirements related to the Garden Community, and hence progress updates will be reported regularly to the Joint Committee.

## BACKGROUND

### Context

The successful Housing Infrastructure Fund bid saw funding provided for infrastructure works related to the provision of a new Rapid Transit System for Colchester. A RTS will be in place to connect the Garden Community with the University of Essex, Colchester Town Centre, Colchester Railway Stations, Colchester Hospital, Community Stadium, Northern Gateway Sport Park and the existing Park and Ride site in north Colchester. This will provide a high frequency, efficient public transport system with priority over general traffic within the Garden Community. The final route within the Garden Community will be confirmed with the Councils and agreed through the strategic masterplan.

A key feature of the RTS is the incorporation of Park and Choose facilities (P&C), provision of which was included in the Draft Plan. The concept for P&C is to be developed as part of, and support, the RTS being delivered. P&C extends the concept of park and ride (P&R) to include choice and work as a central hub for other modes. Principally this will be cycle or electric cycle hire but in time could be extended to electric scooters, e-cargo, etc. It can also provide space for users to store their own bicycles. Providing choice could appeal particularly to nearby potential users travelling to the University of Essex, but also to those travelling to destinations in Colchester further away from RTS halts and interchanges.

For North Essex, it is proposed that the ultimate aims will be to introduce a system akin to a trackless tram. This combines the advantages of light rail with the practicality and flexibility of bus rapid transit. ***The system can be built up incrementally, growing alongside future housing and economic growth.*** It adapts readily to early adoption of autonomous vehicle technology, and, in time, the main trackless trams would co-ordinate with automated pods to take passengers to final destinations.

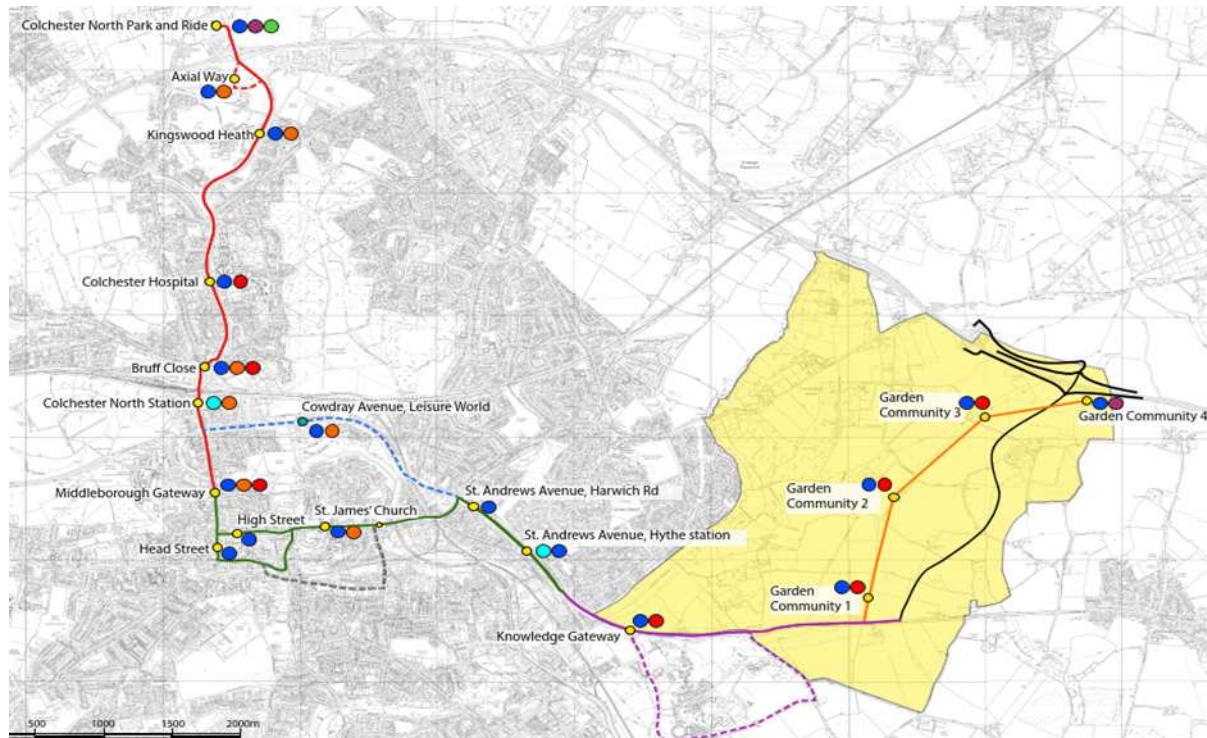
Public transport provision will need to be of a high quality from the outset. Achieving high shares for trips being undertaken by sustainable modes will be crucial in ensuring that growth in the housing supply occurs sustainably. The RTS should offer easy interchange with existing modes of public transport across the town, along with being well designed to facilitate walking and cycling.

Electric vehicles are already significantly gaining ground, and electric buses are in service or planned to be so across the UK. The aspiration is that the RTS will be operable with electric

vehicles, thereby delivering even greater reductions in emissions of both greenhouse gases and chemicals harmful to health.

## Update on Progress

For the purpose of delivery, the RTS proposals have been split into four sections which were presented to the public in 2019:



### Section A

**Section A** covers from the existing A12 Park & Ride Site to the Albert Roundabout. This includes the existing planning permission for a 'segregated busway' adjacent to the Northern Approach Road.

- Planning Consent – Discharge of Conditions to CBC, achieved January 2022
- Tender Publication – Summer 2022,
- Construction on site start – Spring 2023
- Construction Completion – Spring 2024

### Section B

**Section B** covers from the Albert Roundabout to Greenstead Roundabout throughout the town centre. Within the centre of Colchester, limitations of space will see a focus of hurry-call (GPS based) priorities on traffic signals, utilisation of existing bus lanes, and measures to reduce traffic within the heart of the town centre.

- Design – Ongoing
- Tender Publication – Summer 2022
- Construction Start – Spring 2023
- Construction Complete – Summer 2024

## Section C

**Section C** covers from Greenstead Roundabout to the future Garden Community connection (location along A133 to be determined). This will see the construction of a new segregated busway between Knowledge Gateway and Greenstead roundabout to provide dedicated capacity for the RTS/buses. Additional improvements will be made to the existing cycle network to support improved active travel provisions from the Garden Community, but also from existing suburb areas and the University as well.

- Design – Ongoing
- Tender Publication – Spring 2023
- Construction Start – Autumn 2023
- Construction Completion – Winter 2024

## Section D

**Section D** covers the routing within the Garden Community itself and will evolve as the Masterplan develops.

### **Operational Model Development**

Detailed work has commenced on establishing the service type to run on the RTS.

The fundamental basis of the RTS will be a passenger focused concept of High Quality Public Transport which in effect will provide the basis for future decisions on the operation of the service – recognising that if the RTS is to attract large numbers of passengers and to achieve ‘modal shift’ from cars to public transport, it will need to provide an ‘offer’ which is convenient, reliable, fast, affordable and which is focused on providing the best possible passenger experience.

Key activities will be

- Defining the target service standard (vehicles, frequencies, fares, branding, routes etc)
- Setting out a business case for achieving the target service standard in phases linked to the anticipated growth of demand for the RTS
- Establishing the role and phasing of Park & Choose linked to the Garden Community
- Set out the implementation plan for the RTS service including both the target operating standard and the initial operating standard reflecting a phased roll out of the service.

Outline Business Case – estimated completion by early 2023 for approval

Start the procurement of the RTS service by end of 2023 with a view to commence the initial phase of the RTS operations during 2025/26

### **Mobility Hubs and Halts**

The RTS will need a number of ‘access points’ for passengers which will in effect be hierarchy of stops (or “halts”) which in certain locations will be more substantial ‘mobility hubs’ which could offer a range of transport and other services intended to support overall patronage of the RTS.

ECC is developing a consistent and programmatic approach to optimise benefits and support ongoing management and maintenance and has secured Government funding to:

- Review approaches and evidence elsewhere and decide on objectives.
- Develop typologies of Mobility Hubs appropriate to Essex and identify essential and desirable features.
- Identify locations with potential for Mobility Hubs to be successful.
- Develop high level concepts for Mobility Hubs based on a scalable and modular kit of parts which can be incrementally extended.
- Identify implementation, operation, and management options along with cost implications and revenue generation opportunities.
- Develop options for a programme of Mobility Hubs.
- Define the location, number, and design of halts for the RTS, again reflecting the objectives of the service to promote a high-quality public transport alternative to the car.

This work has a significant overlap with the 'operational study' outlined above in terms of understanding where and how mobility hubs can contribute to achieving a successful and commercially viable RTS.

All of these considerations, related workstreams and overall progress will inform additional evidence base work related to transport as part of the overall evidence base to be prepared to accompany the Final Plan to be submitted.

## **RECOMMENDATION**

**That the Tendring Colchester Borders Garden Community Joint Committee notes the update on the delivery of the RTS infrastructure and operational model.**

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## TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

18 JULY 2022

### A.4 **JOINT COMMITTEE PLANNING PROBITY PROTOCOL**

Report prepared by Lisa Hastings (Tendring District Council), Andrew Weavers (Colchester Borough Council)

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

To consider the attached **Planning Probity Protocol** (Appendix A) related to the functions of the Tendring Colchester Borders Garden Community Joint committee. The Protocol describes how the Councils will deal with planning applications and other planning practices within the TCBGC area.

**Members of the Committee are requested to agree to the content of the Planning Probity Protocol and act in accordance with it going forward.**

##### **EXECUTIVE SUMMARY**

###### **Key Points**

- The Protocol applies and focuses on the functions and responsibilities of the Joint Committee for determining planning applications within the TCBGC area. Executive functions, not connected with the DPD process or otherwise delegated to the Joint Committee, but nonetheless relate to the TCBGC remain with each Council to exercise.
- Members of the Joint Committee are expected to observe the requirements and principles as set out in the Protocol at all times when involving themselves in the planning process.
- The planning system relies on Councillors and Officers acting in a way which is fair and is clearly seen to be fair. This includes acting in accordance with planning law in all instances, and paying due regard to national and local policies, in addition to all other “material planning considerations”.
- Each of the Councils forming the Joint Committee has their own locally adopted Members’ Code of Conduct which must always be complied with first. These are very similar and based upon the national Nolan Principles. Each Member of the Joint Committee must observe the requirements of their own Council’s Code, giving particular attention to declarations of interest.
- Decision-makers must not fetter their discretion by approaching the decision to determine a planning application with a closed mind. It is a legal requirement to approach the determination

of a planning application with an open mind to prevent a legal challenge for pre-determination or bias.

- Officers are responsible for carrying out their duties in compliance with the Royal Town Planning Institute Code of Conduct, in particular that Officers must not make or subscribe to any statements which go against their own professional standards.
- Care will be needed where there is contact with applicants, developers and objectors. Certain structured meetings can occur where there is transparency, consistency and fairness to all. Members may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.
- Councillors should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may subsequently prejudice their impartiality, and therefore their ability to participate in the Joint Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- The overriding duty is to the whole of the Garden Community area and not just to the people in the Ward/Division and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- Members of the Joint Committee should come to meetings with an open mind and demonstrate that they are open-minded. Decisions should be taken in accordance with the Section 1 of the Local Plan and the Development Plan Document unless material considerations indicate otherwise. Members should come to a decision only after due consideration of all of the information reasonably required upon which to base a decision.
- Planning applications may be brought forward as the DPD is progressing through examination and could be reported to the Joint Committee for consideration. Such applications would need to be considered on their overall planning merits, which would include the wider policy framework set by the adopted Section 1, the status of the DPD in terms of its advancement through the plan making process, any emerging findings from its consideration via an examination in public, and any other material planning considerations.
- All Councillors attending pre-application discussions must have first attended a training session on conduct at pre-application discussions. These training sessions will be organised by the respective Councils' Planning Service on a regular basis in order to ensure that the integrity of the Councillor's decision-making role is maintained.

#### **RECOMMENDATION**

**That the Tendring Colchester Borders Garden Community Joint Committee Planning Probity Protocol (attached at Appendix A) be agreed and applied by Members and Officers.**



**A.4 APPENDIX A**  
**TENDRING COLCHESTER BORDERS GARDEN COMMUNITY**  
**JOINT COMMITTEE PLANNING PROBITY PROTOCOL**

**1. BACKGROUND:**

- (a) A Joint Committee has been established by Tendring District Council, Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community (TCBGC).
- (b) The Joint Committee's remit is to jointly discharge those specific executive and non-executive functions related to TCBGC, delegated 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.
- (c) The functions delegated are set out in 4.2 (a) to (h) (in Appendix A) however, in summary there are two themes:
  - (i) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC Development Plan Document and ensuring it:
    - is in accordance with the Local Development Schemes;
    - 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;
    - 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;
    - has regard to the adopted Section 1 of Colchester Borough Council and Tendring District Council's Local Plan;
    - has regard to the resources likely to be available for implementing the proposals in the document;
    - other such matters the Secretary of State prescribes; and
    - complies with the Council's Statement of Community Involvement
  - (ii) Act as Local Planning Authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015, within the TCBGC area.

**2. INTRODUCTION:**

- (a) This Planning Probity Protocol (this Protocol) applies and focuses on the functions and responsibilities of the Joint Committee for determining planning applications within the TCBGC area (as referred to in 1(c) (ii) above).

- (b) Planning matters have a significant impact on our lives and the area where we live, work or play. Consequently, planning attracts a great deal of public and media interest. It is important that the system operates, and is seen to be operated, in an honest, open and transparent manner.
- (c) This Protocol describes how the Councils will deal with planning applications and other planning practices within the TCBGC area. It applies to all Councillors and Officers who are involved in the Development Management processes. It recognises the separate roles of Councillors and Officers.
- (d) Members of the Joint Committee are expected to observe the requirements and principles as set out in this Protocol at all times when involving themselves in the planning process. This includes when taking part in the decision making meetings of the Joint Committee in exercising the functions of the Planning Authorities or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings.
- (e) The purpose of the Development Management is to consider how development proposals (applications for planning permission) will be considered and determined. To be successful, the planning system relies on Councillors and Officers acting in a way which is fair and is clearly seen to be fair. This includes acting in accordance with planning law in all instances, and paying due regard to national and local policies, in addition to all other “material planning considerations”.
- (f) Each of the Councils forming the Joint Committee has their own locally adopted Members’ Code of Conduct, which although will be very similar and based upon the national Nolan Principles, are slightly different and therefore, each Member of the Joint Committee must observe the requirements of their own Council’s Code, giving particular attention to declarations of interest.
- (g) If a Councillor has any doubts about the application of this Protocol to their own circumstances they should seek advice early and prior to meetings from the relevant Monitoring Officer or one of their colleagues. Further guidance on the relationship between this Protocol and the Members’ Code of Conduct is set out in Section 4 below.
- (h) Executive functions, not connected with the DPD process or otherwise delegated to the Joint Committee, but nonetheless relate to the TCBGC remain with each Council to exercise, although the Councils continue to work in partnership. Each Council’s Cabinet is therefore represented on a separate TCBGC Member Group, which remains in place. However, its terms of reference provide separation between the executive strategic decisions and direction retained by each Council. Advice will be provided separately to Members of the TCBGC.

### 3. DEVELOPMENT PLAN:

- (a) To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see [section 70\(2\) of the Town and Country Planning Act 1990](#) and [section 38\(6\) of the Planning and Compulsory Purchase Act 2004](#) – these provisions also apply to appeals).
- (b) The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at [paragraph 14 of the Framework](#). If decision takers choose not to follow the National Planning Policy Framework, where it is a material consideration, clear and convincing reasons for doing so are needed.
- (c) Both Tendring and Colchester Councils have now adopted a common Section 1 of their Local Plan, which has the shared vision of sustainable development and allocation of TCBGC, which will be further defined through a joint Development Plan Document (DPD) providing detailed parameters and policies (as required within Section 1 – Policies SP8 & 9).
- (d) SP 8 for the Development & Delivery of a New Garden Community in North Essex, which states:

*“Tendring/Colchester Borders, a new garden community which will deliver between 2,200 and 2,500 homes, 7 hectares of employment land and provision for Gypsies and Travellers within the Plan period (as part of an expected overall total of between 7,000 and 9,000 homes and 25 hectares of employment land to be delivered beyond 2033).*

*The garden community will be holistically and comprehensively planned with a distinct identity that responds directly to its context and is of sufficient scale to incorporate a range of homes, employment, education & community facilities, green space and other uses to enable residents to meet the majority of their day-to-day needs, reducing the need for outward commuting. It will be comprehensively planned from the outset, with delivery phased to achieve the whole development, and will be underpinned by a comprehensive package of infrastructure. A Development Plan Document (DPD) will be prepared for the garden community, containing policies setting out how the new community will be designed, developed and delivered in phases, in accordance with the principles in paragraphs i-xiv below. **No planning consent for development forming part of the garden community will be granted until the DPD has been adopted”.***

- (e) Requirements of the Tendring/Colchester Borders Garden Community Development Plan Document (DPD) are set out in Policy SP 9 of the adopted Section 1 of the Local Plan and states:

*“The adoption of the DPD will be contingent on the completion of a Heritage Impact Assessment carried out in accordance with Historic England guidance. The Heritage Impact Assessment will assess the impact of proposed allocations upon the historic environment, inform the appropriate extent and capacity of the development and establish any mitigation measures necessary. The DPD will be produced in consultation with the local community and stakeholders and will include a concept plan showing the disposition and quantity of future land-uses, and give a three dimensional indication of the urban design and landscape parameters which will be incorporated into any future planning applications; together with a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure to ensure that the respective phases of the development do not come forward until the necessary infrastructure has been secured. The DPD and any application for planning permission for development forming part of the garden community must be consistent with the requirements set out in this policy. For the Plan period up to 2033, housing delivery from the garden community, irrespective of its actual location, will be distributed equally between Colchester Borough Council and Tendring District Council. If, after taking into account its share of delivery from the garden community, either of those authorities has a shortfall in delivery against the housing requirement for its area, it will need to make up the shortfall within its own area. It may not use the other authority’s share of delivery from the garden community to make up the shortfall.”*

- (f) Policy SP8 also states that “No planning consent for development forming part of the garden community will be granted until the DPD has been adopted.” It is likely that planning applications will be brought forward as the DPD is progressing through examination and could be reported to the Joint Committee for consideration. Such applications would need to be considered on their overall planning merits, which would include the wider policy framework set by the adopted Section 1, the status of the DPD in terms of its advancement through the plan making process, any emerging findings from its consideration via an examination in public, and any other material planning considerations.
- (g) Upon receipt of a planning application for any part(s) of TCBGC, Tendring District Council and Colchester Borough Council shall agree which Authority shall be the planning authority in respect of that application and it shall be processed in accordance with the relevant Authority’s procedures prior to determination by the Joint Committee.

#### 4. RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT

- (a) The rules contained in the Members' Code of Conduct must always be complied with first. This is both the rules on Disclosable Pecuniary Interests (DPs) and any other interests identified by your Authority, and the general rules and obligations giving effect to the Seven Principles of Public Life: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.
- (b) Do then apply the rules in this Protocol, which seek to explain and supplement the Members' Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this Protocol, you may:
- put the Councils at risk of proceedings on the legality of the related decision or maladministration;
  - undermine the integrity of such important decision making and reduce public trust and confidence;
  - put yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011, a complaint being made to the Police to consider criminal proceedings.

(c) **INTEGRITY – One of the Nolan Principle in Public Life**

*“Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. **They must declare and resolve any interests and relationships**”.*

- (d) It is therefore advisable that Councillors:
- (i) Note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a Councillor may place additional limitations on you in representing the proposal in which you have a personal interest.
- (ii) Notify the relevant Monitoring Officer in writing where it is clear to you that you have a Disclosable Pecuniary Interest or other personal conflict of interest and note that:
- you should send the notification no later than submission of that application where you can;
  - the proposal will always be reported to the Joint Committee as a main item and not dealt with by officers under delegated powers;

- you must not get involved in the processing of the application; and
- it is advisable (but not mandatory) that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at the Joint Committee.

## 5. FETTERING DISCRETION IN THE PLANNING PROCESS

### **Bias, predetermination and predisposition:**

- (a) The law on **bias and predetermination** (which is a particular form of bias) is part of the general legal obligation on public authorities to act fairly. Decision makers are entitled to be **predisposed** to particular views.
- (b) However, **predetermination occurs where someone closes their mind to any other possibility beyond that predisposition**, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision. The leading case on local authority bias and predetermination acknowledges the difference between Judges sitting judicially and Councillors making decisions in a democratic environment. Given the role of Councillors, there must be 'clear pointers' before predetermination is established.
- (c) Councillors are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under Section 25(2) of the Localism Act 2011. The Section provides that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because:
- the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
  - the matter was relevant to the decision.

The section makes it clear that if a Councillor has given a view on an issue, this, considered in isolation, does not show that the Councillor has a closed mind on that issue. So, the mere fact that a Councillor has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that Councillor from being able to participate in discussion of that issue and to vote on it.

- (d) Decision-makers must not fetter their discretion by approaching the decision to determine a planning application with a closed mind. It is a legal requirement to approach the determination of a planning application with an open mind to prevent a legal challenge for pre-determination or bias (both being judicial review grounds in administrative law).

- (e) However, when Councillors come to make the decision, they
- are entitled to have and to express your own views on the matter, provided they are prepared to reconsider their position in the light of all the evidence and arguments;
  - must keep an open mind and hear all of the evidence before them, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
  - are not required to cast aside views on planning policy held when seeking election or otherwise acting as a Councillor, in giving fair consideration to points raised;
  - are only entitled to take account material considerations and must disregard considerations irrelevant to the question and legal context at hand; and
  - come to a decision after giving what they feel is the right weight to those material considerations.
- (f) If a Member of the Joint Committee is also a Parish Councillor affected by the TCBGC area and the application is considered at the Parish Council, as part of a consultation exercise, they are advised to remove themselves from the debate and vote at a local level to avoid allegations of pre-determination or bias at the Joint Committee stage.
- (g) Members wishing to take part in debate through a consultee body must:
- (i) consider if the proposal substantially affects the well-being or financial standing of the consultee body;
  - (ii) make it clear to the consultee body that:
    - your views are expressed on the limited information before you only;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Joint Committee and you hear all of the relevant information; and
    - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Joint Committee.
- (h) Members should take the opportunity to exercise their separate speaking rights as a Ward/Parish/Division Member where they have represented their views or those of local electors and fettered their discretion, but do not have a Disclosable Pecuniary Interest or other personal conflict of interest. Where you do:

- a. advise the Committee Officer or the Chair that you wish to speak in this capacity before commencement of the item and in accordance with the Public Speaking Rights;
- b. remove yourself from the seating area for Members of the Joint Committee for the duration of that item; and
- c. ensure that your actions are recorded within the minutes.

## **6. CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS**

- (a) Councillors should refer those who approach them for planning, procedural or technical advice to officers.
- (b) Councillors should only attend those meetings organised in accordance with this Protocol and must not attend private meetings with developers. The meeting will be conducted during office hours except in exceptional circumstances. It shall be arranged by Officers who shall accommodate, as far as reasonably practical, the availability of Councillors. However, availability shall not be a reason to delay the pre-application -discussion phase.
- (c) In the interests of transparency, consistency and fairness to all, the meetings shall follow a firm structure, as follows:
  - The Planning Officer will act as Chair for the meeting, introducing participants and setting out the purpose of the meeting to advise how it will be conducted;
  - The developer will present their proposal;
  - Councillors will then have the opportunity to ask questions and seek clarification. They may alert the developer to what they perceive as the likely views of their constituents, but care will need to be taken that their own personal views are not expressed;
  - The Chair will then thank the developer for attending and the developer shall leave the meeting;
  - Once the developer has left the meeting Councillors may advise Officers of any other matters they wish to be explored further and any elements which they feel would benefit from negotiation;
  - Officers will then offer a professional opinion to guide Councillors as to what negotiations would be reasonable and how the proposals align with policy; and
  - The Chair will then conclude the meeting.
- (d) The Chair will make it clear to the developer that the role of a Councillor is to listen to the discussion, identify issues that the developer will need to consider and to represent community interests but that it will not be possible for any Councillor to enter into negotiations or express a view on the proposal.



- (e) The Chair will record the meeting and take a note of all present, plus any issues identified. Officers will take appropriate follow up action. The note of the meeting will be placed on the public file at the earliest opportunity. In all cases, the involvement of Councillors will be recorded in any subsequent planning application, whether in any delegated report or in any Committee report.
- (f) Negotiations will take place after the meeting and will only be undertaken by Council Officers.
- (g) In the case of potentially contentious meetings, two or more Officers will attend. For certain major, complex proposals it may be necessary to have more than one Councillor meeting and, to this end, a schedule of involvement will be agreed with the developers by Officers.
- (h) Councillors should be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.
- (i) Councillors who are members of the Joint Committee and also a member of the TCBGC Member Group (whose purpose is provide political oversight of the delivery of the TCBGC) must ensure that their respective roles do not lead to a potential conflict of interest and in the case of a potential conflict of interest the Councillor must seek advice from their respective Monitoring Officer.

## **7. LOBBYING OF COUNCILLORS**

- (a) Councillors should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may subsequently prejudice their impartiality, and therefore their ability to participate in the Joint Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- (b) The overriding duty is to the whole of the Garden Community area and not just to the people in the Ward/Division and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- (c) Councillors and Officers must not accept any gifts or hospitality from any person involved in or affected by a planning proposal.
- (d) Any lobbying correspondence received can be read but should also be passed to the Planning Officer at the earliest opportunity.

- (e) The relevant Monitoring Officer should be informed where Councillors or Officers feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- (f) Councillors should make the necessary declarations that they have been lobbied on any particular matter at the Joint Committee when the application is being considered under the Declaration of Interests item of the agenda.
- (g) Unless Councillors have a Disclosable Pecuniary Interest or other interests, they will not have fettered their discretion or breached this Protocol through:
  - (i) Listening or receiving viewpoints from residents or other interested parties;
  - (ii) Making comments to residents, interested parties, other Councillors or appropriate officers (making clear that you must keep an open mind when it comes to making the decision)
  - (iii) Seeking information through appropriate channels; or
  - (iv) Being a vehicle for the expression of opinion of others in their role as a Ward/Division Councillor.

## **8. LOBBYING BY COUNCILLORS**

- (a) Councillors should not become a member of, lead or represent an organisation whose primary purpose is to lobby or promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Joint Committee when it comes to make its decision.
- (b) Councillors should not excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- (c) Councillors should not decide or discuss how to vote on any application at any political group meeting, or lobby any other Councillor to do so. Political Group Meetings should never indicate how Councillors should vote on a planning issue.

## **9. SITE VISITS/INSPECTIONS**

- (a) Members of the Joint Committee must attend site visits organised by the Councils, otherwise they will NOT be permitted to sit on the Joint Committee for those items.
- (b) The only people invited to the site visit are Councillors of the Joint Committee and Officers of the Councils. Whilst other parties may be

present, no one other than the Chair, Councillors of the Joint Committee and Officers may address the Committee on a site visit.

- (c) The applicant and any other parties who are present at the site visit as a result of publicity (e.g. Ward/Division Councillors, neighbours or objectors) will not be permitted to participate in the site visit, discussions or speak directly to Councillors of the Joint Committee
- (d) On assembling at the site, the Chair will advise those present of the purpose of the site visit and the procedure to be followed, so that all are aware that it is a fact finding exercise only and that no decision will be taken until the Joint Committee meeting.
- (e) Members of the Joint Committee must ensure that they treat the site visit only as an opportunity to seek information, to observe the site and ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- (f) Members of the Joint Committee must not express opinions or views.
- (g) The Joint Committee party will stay together as a group. No lobbying by applicants or objectors will be allowed at the site visit. If an applicant or objector(s) persist(s) in attempting to lobby, all Councillors and Officers will leave the site.
- (h) If access to private land is needed, Officers will get the agreement of the landowner before the visit.

## **10. PUBLIC SPEAKING AT MEETINGS**

- (a) The Joint committee has a Public Speaking Rights scheme, which forms part of its Standing Orders which should be followed and observed by all parties.
- (b) Councillors should not allow members of the public to communicate with you during the Joint Committee's proceedings (orally or in writing) other than through the Public Speaking Rights Scheme or through the Chairman, as this may give the appearance of bias.

## **11. OFFICERS**

- (a) For the purposes of the Joint Committee's consideration of the planning application, Officers will:
  - (i) give clear professional and impartial advice;
  - (ii) make sure that all the information needed for a decision to be made is provided;

- (iii) put the application in context, in terms of the Development Plan and all other relevant material planning considerations;
  - (iv) give a balanced, clear and accurate written analysis of the issues, acknowledging the relative merits of alternative opinions or options that may exist;
  - (v) wherever possible, distinguish matters of fact or law from their own professional opinions and/or judgements; and
  - (vi) give a clear recommendation, with reasons.
- (b) The exception to simply providing recommendations is if they have been given further powers under the appropriate Council's Scheme of Delegation to Officers, or when the Joint Committee gives specific delegated authority.
- (c) Officers are responsible for carrying out their duties in compliance with the Royal Town Planning Institute Code of Conduct, in particular that Officers must not make or subscribe to any statements which go against their own professional standards. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Joint Committee or its Members.
- (d) Members of the Joint Committee must not put pressure on officers to put forward a particular recommendation. However, this does not prevent Members from asking questions or submitting views to the Planning Officer, which may be incorporated into any committee report.

## **12. REPORTS & DECISION MAKING**

### **Members of the Joint Committee should:**

- (a) Come to meetings with an open mind and demonstrate that they are open-minded.
- (b) Comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Section 1 of the Local Plan and the Development Plan Document unless material considerations indicate otherwise.
- (c) Come to a decision only after due consideration of all of the information reasonably required upon which to base a decision. If it is felt there is insufficient time to digest new information or that there is simply insufficient information before them, request that further information. If necessary, defer or refuse.
- (d) Should not vote or take part in the meeting's discussion on a proposal unless they have been present at the entire debate, including the Officer's introduction to the matter.

- (e) Ensure the reasons for the Joint Committee's decision to defer any proposal are fully provided and recorded e.g. seeking further information, what and why?
- (f) Make sure that if proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan, the planning reasons leading to this conclusion/decision are clearly identified. These reasons must be given prior to the vote and be recorded. Be aware the Joint Committee may have to justify the resulting decision by giving evidence in the event of any challenge.

### **13. TRAINING**

- (a) All Councillors attending pre-application discussions must have first attended a training session on conduct at pre-application discussions. These training sessions will be organised by the respective Councils' Planning Service on a regular basis in order to ensure that the integrity of the Councillor's decision making role is maintained. No Councillor engaging in pre-application discussions should go more than 24 months without at least attending a "refreshment training session".
- (b) All Councillors must receive training in planning procedures. The subjects covered by the training will be decided by Officers in consultation with Councillors. A Councillor who does not undertake the training for Councillors on ***Development Control (Determining Planning Applications)*** will be disqualified from the Joint Committee and from being a substitute for Councillors of the Committee who are unable to attend. They will also be unable to participate in any pre-application or planning application meetings that include the developer, applicant(s) or their agent(s).
- (c) A programme of training will be available each year, covering issues of current importance as well as updating knowledge. From time to time, specialist training will be provided to cover particular topics or to look at matters in greater depth.

### **14. REVIEW OF THIS PROTOCOL**

This Protocol will be reviewed annually by the Joint Committee.

*To be considered and approved by the  
Tendring Colchester Garden Communities Joint Committee  
18 July 2022*

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