

## LOCAL PLAN COMMITTEE

### 14 July 2020

*Present: -* Councillors Barber, Barlow, Bourne, Coleman, Ellis, Hayter, Moore, G. Oxford and Scordis

*Substitutes: -* None.

#### **190. Election of Chairman**

*RESOLVED* (SEVEN voted FOR and TWO ABSTAINED from voting) that Councillor Barlow be elected as Chairman of the Local Plan Committee for the 2020-21 municipal year.

#### **191. Election of Deputy Chairman**

*RESOLVED* (FIVE voted FOR and FOUR ABSTAINED from voting) that Councillor Scordis be elected as Deputy Chairman of the Local Plan Committee for the 2020-21 municipal year.

#### **192. Minutes of the Previous Meeting**

*RESOLVED* (FIVE voted FOR and FOUR ABSTAINED from voting) that the minutes of the meeting held on 27 February 2020 be confirmed as a correct record.

#### **193. Have Your Say!**

**Councillor Cory (as a lay board member of the North East Essex Clinical Commissioning Group) and Councillor King (as the Council's representative on the Board of North Essex Garden Communities Ltd) declared a non-pecuniary interest in the following item pursuant to the provisions of rule 7(v) of the Meetings General Procedure Rule.**

Councillor Glyn Evans addressed the Committee pursuant to the provisions of Remote Meetings Procedure Rule 5(1) and addressed the Committee as follows:-

“One of the universal laws that endured in my 35 years as a professional financial planner was that investing in long-term projects with little or no return projected for several years when there is no cash buffer is risky to the point of being foolish.

There are several other pertinent risks at play with the Garden City proposals for which there are dire precedents. In the modern technological age, the pace of change is quick and unpredictable. Technology itself is quickly outmoded. Business and to a great extent, society needs to be light on its feet in adjusting to change. Investing large amounts, up-front, in a project which is projected to complete after

more than one decade has historically resulted in almost universal failure. In the space of just 13 years for example, Ireland's entire economy went from boom to prolapse.

Garden Cities may be a smaller concern but are no less speculative. The acid test of any project is whether a private investor would stake their hard-earned cash. The professional investor would consider the business plan, the previous track record and the credentials of the directors. And then perhaps, the assets or cash that back the investment...

Taken in turn:

- The business plan had to undertake a major overhaul to meet the approval of inspector Clews whose pronouncement of viability is, yet still, based on several funding assumptions and aspirational land purchase values, many of which have yet to be substantiated.
- There is no previous track record of such a garden city in circumstances such as these.
- The directors of NEGC do not have relevant qualifications or experience to any level. It seems unlikely that any would have been selected for these roles in the commercial arena based on this. Questions have been raised as to whether those who advise them are truly independent.
- There are no assets. The cash (approx. £8m) that has been invested so far has been spent; much of it on salaries. Not one penny has invested in any assets.
- There is no entity, corporate or private, that shares any of the investment risk. It is borne entirely by the taxpayer.
- We are experiencing the sharpest and deepest recession in living memory from which we are unlikely to emerge anytime soon.

All investors run from uncertainty... Just watch the markets.

Lastly NEGC's Managing Director, in front of several hundred people at the Barn Brasserie in Great Tey on 18<sup>th</sup> January, 2019 was recorded saying that pension funds would be investing in this project. Given the Trustees' fiduciary duty to act in the best interest of its members, this is one acid test I would be very interested to see come to pass. The taxpayers who ultimately underwrite this project deserve to see that part of the investment prospectus – if any – that convinced the trustees to invest on its merits. In the absence of this, it would seem that the only private entities involved in this project are those that will be net beneficiaries of whatever taxpayer-funded subsidies may yet support it"

The following written submissions had also been received and were read to the Committee, pursuant to the provisions of Remote Meetings Procedure Rule 5(1).

**Councillor Anthony Ellis, Langham Parish Council**

1. *“What planning legislation and regulations have been applied to application no. 191830, those based on the Adopted Local Plan (ALP) or the Emerging Local Plan (ELP)?*
2. *Under what legislation was the decision made to recommend approval of application 191830 at an “in camera” meeting of selected Councillors and Officers last March?*
3. *Paragraph 58 of the Planning Inspector’s letter supports the Parish Council’s position on waste water infrastructure which it has reiterated to CBC over the last three years. What steps will CBC now take to address this issue? Extracts from the letter are set out as follows:”*

*Para 51*

*“I consider that it is reasonable for EB/083 to conclude that main modifications to Plan policies SP5, SP7, SP8, SP9 and SP10, requiring adequate waste water treatment capacity to be provided before dwellings are occupied, will ensure that no adverse impact on any European site will occur as a result of changes in water quality.”*

*Paras 154-156*

*“... There are statutory responsibilities on the water supply companies (Anglian Water and Affinity Water) to plan to meet future growth in demand, and on Anglian Water to provide waste water treatment capacity.*

*Allocations are made in the NEAs’ viability assessment to fund connecting infrastructure at each of the proposed GCs.*

*However, those allocations are inevitably subject to a degree of uncertainty given that specific solutions have yet to be identified. I consider the consequences of this in the section on viability below.”*

### **Jane Black, Wivenhoe Society,**

1. *“The wording on medical facilities in policy SP8, amendment MM35, has been changed from the original draft. Instead of committing to new on-site primary healthcare provision it now states that extra capacity could be provided by improvement, reconfiguration, extension or relocation of existing medical facilities. What are the implications of this in practice? Does this mean that Greenstead or Wivenhoe might lose their existing GP surgeries which would be to the severe detriment of these communities? Does it mean that residents of the Garden Community might have to travel to Greenstead or Wivenhoe? Either alternative would mean increased car journeys and congestion. Not providing on site medical provision does not seem consistent with the Garden Community principles and relocating existing facilities would have severe consequences for existing communities.*
2. *Broad Location Map, 10.2 (reference SP7 MM18): A note at the end states this will be added and based on the map provided for the Hearings, document EXD/080A. The map in this document has some text stating that the Broad Area of Search includes areas which will act as landscape buffers between the Garden Community and surrounding settlements to provide adequate separation and to ensure the identity of existing communities are maintained. This text needs to be included either as part of map 10.2 or within the text of the policy where the map is referenced.*

3. *Gypsies and Travellers provision (SP7 MM18): There is no statement of the hectares required. It may be difficult to fit in all the housing proposed, given all the constraints. Local Authorities have an obligation to provide for Gypsies and Travellers and there is a shortage of sites but no explanation is given to why provision should be tied to the Garden Community. Will the Garden Community pitches be equally assigned to meeting Colchester and Tendring's needs?*

4. *Rapid Transport Route 1 (SP5 MM11): No route on the ground has yet been defined. Could the Council ensure that there is adequate further consultation and that in deciding on alternatives the disruption costs from construction is one of the factors taken into account on deciding on a route?"*

### **Sir Bob Russell**

*With High Woods Country Park, Cymbeline Meadows and Gosbecks, Colchester Borough Council has shown to central government how local councils can provide new areas of public open space and parkland – and, with these three examples, now provide urban Colchester with a “public open space” to the east of Greenstead and Longridge.....creating a public open space eastwards for a minimum of 1.5 kilometres from Salary Brook to the western edge of the proposed “new community” near Elmstead Market.*

*Colchester Borough Council and Tendring District Council have previously – working in partnership, which is to be applauded – agreed that there should be no new development eastwards of Salary Brook: from the brook itself as the western boundary, up the eastern slopes, and then eastwards for such a distance that none of the new dwellings in the “new community” would be visible from Greenstead and Longridge at any time during the seasonal changes of the year.*

*Regrettably, the area to the northern end of the valley (in the Parish of Ardleigh, thus Tendring District) is currently being developed – a ludicrous decision by a Government Planning Inspector against the Refusal by Tendring District Council (a Refusal backed by Colchester Borough Council) for this new development off Bromley Road.*

*That ludicrous decision must not be allowed to be a precedent for the rest of the valley and its eastern slopes – rather a visible warning of how allowing more development in the valley and on the slopes would be a planning and environmental disaster to the disbenefit of residents of Greenstead and Longridge.....and a visual ruination of the current open countryside when viewed from Clinghoe Hill.*

*Opposition to development of Salary Brook Valley and the eastern slopes must include all land from the northern end (next to the new housing being built off Bromley Road) to the southern end – next to Clinghoe Hill.*

*Previous suggestions for expansion by the University of Essex onto the Salary Brook northern side of Clinghoe Hill should be clearly made one of “no development” with the fields here remaining undeveloped and included in the proposed “Salary Brook Country Park”.*

*It does not make sense to have a university campus split by a dual carriageway! A dangerous, fast-moving road with a record of injury accidents and fatalities.*

*What I have laid out above is fully in accord with all that has been said, by Councillors and members of the public, over the past five years during the deliberation of the Local Plan.*

*Specifically, at the meeting of the Local Plan Committee on 6th November 2017 it was agreed that the next consultation document would include wording to this effect, with no development on land eastwards for a distance of at least 1.5 kilometres.*

*I trust the Committee will confirm its previous intentions.*

Ian Vipond, Strategic Director, Policy and Place, was invited to respond to the Have Your Say! submissions. He explained that many of the questions related to the form of development of the Tendring/Colchester Borders Garden Community. The details of this would be brought forward in the Development Plan Document and subsequent masterplan.

In respect of Councillor Evans comments on the long term risks of the development, much of these issues had been considered in depth by the Inspector and he had concluded that the proposals for the Tendring/Colchester Borders Garden Community did meet the viability test and could be delivered. On the issues of waste water, whilst the Inspector recognised the issue he had noted that Anglian Water have a statutory duty to provide the necessary facilities to meet the waste water requirements. In respect of the comments by Jane Black, the broad location of the proposed garden community was in an area of search. The actual details of the location would be brought forward in due course. The issues raised about the map were for the Inspector at this stage. The details on issues such as medical facilities would be addressed in the Development Plan Document. The need for early provision of infrastructure such as medical facilities had always been recognised. In response to the comments of Sir Bob Russell, it was recognised that he had a passion for protecting the Salary Brook eastern slopes. However the precise location of the development and its impact would be issues for the Development Plan Document and subsequent masterplan.

Karen Syrett, Lead Officer: Planning, Housing and Economic Growth, explained that the comments made by Councillor Ellis about a planning application in Langham were being dealt with in separate correspondence.

Councillor Luxford Vaughan attended and with the consent of the Chairman addressed the Committee. She considered that there were three reasons why the Committee should not adopt the Plan. The Council had declared a climate emergency and this form of car based development was inconsistent with the climate emergency. The proposed location was on the best farmland in the county and was currently used for food production. The value of this had been demonstrated by Brexit and the food supply problems during the Covid 19 pandemic. The associated transport infrastructure would contribute to congestion on the A133 which was the worst traffic hotspot in the borough. Ringway Jacobs had produced reports that demonstrated that congestion would increase and would spread to areas such as Stanway and the Hythe. In order for the Rapid Transit System to work, on-street parking would need to be removed on all the routes, car parking charges in the town centre would need to be increased and a congestion charge introduced. In respect of viability, it had been stressed in previous reports that the Council needed to own

the land to make the scheme viable. The landowner was in a strong position and would sell to the highest bidder. The viability also did not take account of paying interest on the land. There were also a number of the detailed issues affecting the viability of the proposal. If the Council was committed to Garden Community principles it needed to sign up to them now. It was not enough to leave these matters to the Development Plan Document.

Councillor Dundas attended and with the consent of the Chairman addressed the Committee and stressed that the Council needed to look back and see where it could have done better. The Conservative group had stated in Council four years ago that only one of proposals was viable. If those views had been heeded, considerable time and resources would have been saved. Their views had been consistently ignored. The Inspector had presented the Council with very blunt options and whilst he was pleased the entire plan had not been thrown out, he had reservations about the Tendring/Colchester proposal. The transport proposals would not achieve the modal shift sought. The modifications proposed were very extensive. The reasons the Conservative members on the Committee had put forward in July 2019 for not proceeding with the other schemes had been accepted by the Inspector. Their views on this issue should be listened to in order to enable the Council to move forward with unity.

Councillor J. Young attended and with the consent of the Chairman addressed the Committee and paid tribute to the work of planning officers. The Committee should listen to the Inspector and take the proposals forward. A number of the modifications had been suggested by officers. A Development Plan Document would be produced which would add the necessary detail. The Plan referenced garden community principles and this could be built on. The administration would ensure that infrastructure was provided in a timely manner and the Committee should accept the recommendations.

Councillor Cory attended and with the consent of the Chairman addressed the Committee to stress the need to work together on a plan based on garden community principles and to get the principles endorsed in the Plan. It was important to get the next steps right. He had circulated a document which contained proposed amendments to the Inspector's modifications and he invited the Committee to recommend to the Inspector that they were looked at. Paragraph 4.2 of Appendix 3 to the report suggested that minor modifications could be considered. This would ensure that garden community principles were embedded in the plan going forward. The proposed amendments included giving clarity to the area of the garden community by defining its geographical boundaries, including trigger points for infrastructure and housing numbers, assessing the impact of the Rapid Transit Scheme on existing bus route and ensuring existing communities did not lose services or facilities.

Councillor King attended and with the consent of the Chairman addressed the Committee to stress his respect for the professionalism and judgement of the Inspector. He stressed that a huge opportunity remained within reach and that garden communities were a prize worth pursuing. They would lead to considerable economic investment in the area, and if the recommendation was not accepted, then the Council would need to start the process against with the probability of higher housing targets.

#### **194. Local Plan: Inspector's Conclusions and Recommendations**

The Committee considered a report from the Assistant Director, Place and Client Services, setting out the conclusions of the Planning Inspector on the shared Section 1 of the Braintree, Colchester and Tendring Local Plans. Ian Vipond, Strategic Director, Policy and Place, attended to present the report and assist the Committee.

The Strategic Director explained that the Planning Inspector had shown a fair degree of support to a number of key issues. The Plan had been deemed to have been legally compliant, the Sustainability Appraisal, subject to some issues on deliverability, had been accepted and he had concluded that the Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) had been assessed correctly. The Inspector had also reconfirmed his original position on housing numbers with a requirement of 920 houses per annum, although this would need to be reviewed in the light of the 2018 household projections. The Inspector had also been content with the range of delivery mechanisms and had been content with road links and other infrastructure issues and with employment contributions. However there were significant issues on which he had not been convinced. He had not been satisfied that routes three and four of the Rapid Transit System were deliverable and he had expressed concern about the proposed annual rate of housebuilding. He had not accepted some of the work done by the Councils on land values which had implications for his view on the viability of garden communities at Colchester Braintree Borders and West of Braintree. He had therefore concluded that neither of these garden communities were likely to be delivered. However, he had concluded that the Section 1 Plan could be sound if those garden communities were removed and the Tendring Colchester Borders Garden Community only was included. The proposals he had presented were that either the Council and its partners accepted his modifications to Section 1 of the Plan, or the Plan was withdrawn and a fresh start was made.

If the Committee resolved to accept the recommendation to proceed with proposed modifications, the Inspector would then undertake a period of public consultation on the modifications. This was likely to run from August to October. The consultation would include updates on Sustainability Appraisal and Habitats Regulations Assessment work covering the proposed modifications. It was important to recognise that the modifications had been put forward by the Inspector. He was not seeking the Councils' views on them at this stage, although views could be submitted during the public consultation. It would be for the Inspector, not the Council, to consider the representations made in the consultation, and he could reopen hearings again, if necessary.

In response to a question from Councillor Barlow, it was confirmed that Tendring and Braintree would have considered the Inspector's letter by the end of July 2020. Assuming all three districts agreed to proceed with the modifications, work on the re-evaluation of the Sustainability Appraisal would need to be completed. It was then anticipated that the consultation on the modification would take place for six weeks from mid-August, and with the final letter from the Inspector being received in autumn 2020.

Councillor Ellis expressed his concern that the views of the Conservative members of the Committee had not been heeded. They had repeatedly indicated that the wrong approach was being taken. The Inspector had confirmed their views. Their attempts to agree on a consensus had been frustrated and their red lines ignored. Lessons needed to be learnt. It needed to be accepted that officers were fallible and members needed to work harder so they were better equipped to challenge. There was no appetite to start the Local Plan process again, and the Committee had to accept the view of the Inspector on the Tendring Colchester Borders Garden Community. If not, higher housing targets would have to be accepted. However concern was expressed that the proposed modifications did not sufficiently hardwire garden community principles into policy. The amendments suggested by the Leader of the Council were sensible and there would be benefit in putting these to the Inspector now. The Inspector could then incorporate them, or advise that they be submitted as part of the consultation. However it was vital that if the Tendring Colchester Borders Garden Community was to go forward, that garden community principles were incorporated into policy.

Concern was also expressed that the Inspector had not called for a definitive map. Over the years the Committee had made a number of pledges around green buffers and again these needed to be hardwired into policy. He would support the recommendations if the Leader's amendments were put to the Inspector at this stage to see if he would rather accept them or would prefer them to be put forward as part of the consultation.

Councillor Scordis explained that he did not consider that the views of the Conservative Group had been ignored. There had been different views, as was normal in political debate. He called for a change in tone in the debate. The Inspector's modifications were not open for debate and the imperative was to get Section 1 of the Plan agreed, so the Council could move on to Sections 2. Until a new Local Plan was agreed there was an increased risk of speculative development. If the recommendations were not agreed or amended this may lead to further delay on the consultation and may put the Housing Investment Fund funding at risk.

Councillor G. Oxford was of the view that the proposed modifications put forward by the Inspector did not meet garden community principles. It was vital that the necessary infrastructure was delivered first. Highwoods had suffered from a failure to deliver this in previous developments. The emphasis on trigger points did not give confidence that infrastructure would be delivered first. The Rapid Transit System would not work. He was leaning towards supporting restarting the Local Plan process.

In response, the Strategic Director explained that he believed that the Inspector had received numerous representations in respect of hardwiring the garden community principles into the Plan and would have considered those representations and the issues raised in the amendments suggested by the Leader when putting forward the modifications. In doing so he recognised that the wider policy framework would be provided by the Local Plan and the details of issues such as buffer zones and location of facilities would be settled through the DPD. The Inspector was not looking for comments on the modifications. He had included reference to the Garden Communities Charter within Section One of the Plan, which do go some way to meeting some of the concerns expressed by members. He was looking for an



indication that the Council was content to proceed with the modifications as drafted.

The Lead Officer: Planning, Housing and Economic Growth stressed that the Council was seeking to deliver infrastructure in a timely manner. Its policies such as SP8 showed that it was still committed to that type of development and it would not accept a weakened or watered down version.

Councillor Barber paid tribute to the work of a range of community groups and parish councils, whose views had been vindicated. The views of communities in the east of the borough who were concerned that the Tendring Colchester proposal was still going forward needed to be recognised. The concerns they had raised were valid. The Local Plan process had reached this point because the majority of the Committee had not listened to those who knew their communities best. The Plan could not be considered successful given that NEGC Ltd were collapsing and that 80% of the housing had been removed from the Plan. Conservative members had raised these concerns repeatedly. An opportunity to compromise and change course when the Inspector's letter had been received had not been taken. Considerable funding had been wasted and the risk of speculative development increased. Neither of the options before the Committee were ideal and he would not support either option. There needed to be an acceptance of the mistakes that had led to this point and an apology to those whose views had been ignored.

Councillor Bourne accepted that the Council had some healing to do in respect of the Local Plan. However, the Local Plan was not just garden communities. There was much other good work, such as Neighbourhood Plans, that was being overlooked by the focus on garden communities. The administration had to take responsibility for garden communities, and also be responsible in responding to the Inspector's letter. This set a clear choice before the Committee and there was clear advice from officers. The Committee needed to take a decision that would facilitate the development of a Local Plan for the borough. The Committee could agree on the need to provide housing that was fit for purpose, sustainable and of the appropriate tenure. There had not been time to consider the Leader's suggested amendments fully and it would be more appropriate for comments on the modifications to be submitted through the consultation process, and the people of Colchester would also have an opportunity to put these points forward in the consultation. In order to move forward and for the consultation to begin, the recommendations in the report needed to be agreed.

Councillor Coleman queried whether the Committee could comment on the modifications and indicated he would support the recommendations in the report. Councillor Hayter indicated he would not favour starting the Local Plan process again. Councillor Moore indicated that she had always considered that the garden communities proposals lacked sufficient foundation. She congratulated the Inspector as he had injected plain language into the Plan through his modifications. The Committee needed to be clear that the Plan would be based on the boundaries it had initially intended.

Councillor Barlow noted that the process was now in the Inspector's hands. He generally supported the amendments to the modifications: the issue was how they could be most effectively put forward. The next meeting of the Committee was scheduled for 3 August 2020. If this was moved back this would give an opportunity

to consider a possible response to the public consultation on the modifications and to discuss the approach with Tendring and Braintree.

The Strategic Director advised that if the Inspector was asked how comments should be submitted, he believed he would invite them through the consultation, and the next meeting of the Committee could be timed to facilitate this. In response to Councillor Moore's point on the map included within the Plan, the Strategic Director indicated that the map showed the area of search. This included the buffer zones, otherwise they would be outside of the DPD. He advised that the map should remain as it was otherwise the buffer zones might fall outside the scope of the DPD policies.

*RESOLVED* (FIVE voted FOR, THREE voted AGAINST and ONE ABSTAINED from voting) that the Planning Inspector be asked whether he would wish to incorporate the amendments proposed by the Leader of the Council to the modifications at this stage so they could form part of the public consultation on the modifications, or whether he would wish them to be submitted as a formal response to the consultation.

*RESOLVED* (SEVEN voted FOR, ONE voted AGAINST and ONE ABSTAINED from voting) that:-

- (a) The findings of the Planning Inspector's letter dated 15 May 2020 attached as Appendix 1 to Assistant Director's report) and his recommended modifications (attached as Appendix 2 to the Assistant Director's report) be noted;
- (b) The Inspectors suggested main modifications be accepted, including the removal of both the Colchester Braintree Garden Community and the West of Braintree Garden Community from the Section 1 Local Plan for the purposes of soundness.
- (c) Subject to the views of the other North Essex Authorities and following the agreement of the Portfolio Holder for Culture and Performance, a formal request be made to the Inspector to recommend main modifications for the purposes of soundness to allow the continuation of the present Local Plan process in accordance with timescales for the consultation exercise and subsequent stages agreed with the Inspector;
- (d) It be noted that public consultation will be undertaken on all the main modifications recommended by the Planning Inspector to make the Local Plan sound;
- (e) It be noted that an update to the Sustainability Appraisal (SA) and the Habitat Regulations Assessment (HRA) for the Modified Section 1 Local Plan will need to be produced and published for consultation alongside the Inspector's main modifications and that consultants LUC are already instructed to undertake this work;

## **195. Tendring Colchester Borders Garden Community**

The Committee considered a report setting out the proposals for the preparation of a Development Plan Document for the Tendring Colchester Borders Garden

Community. Laura Chase, Planning Policy Manager, attended to present the report and assist the Committee.

Members of the Committee indicated that they were content with contents of the report. It was recognised by Councillor Ellis that there was considerable work to do to bring the Development Plan Document forward, should the Tendring Colchester Borders Garden Community go ahead. Councillor Bourne indicated that some of the language would need to be tightened up and made more consistent in the DPD: for instance Salary Brook was referred to in a number of different ways at present. This could lead to confusion and misunderstandings if it was not corrected.

*RESOLVED (UNANIMOUSLY)* that the proposals for the preparation of a Development Plan Document for the Tendring Colchester Borders Garden Community be noted.

### **196. Statement of Community Involvement Coronavirus Update**

The Committee considered a report setting out how the Statement of Community Involvement needed to be amended to take into account the requirements set out in national guidance and procedures on dealing with the implications of the coronavirus pandemic. Karen Syrett, Lead Officer: Planning, Housing and Economic Growth, presented the report and assisted the Committee and highlighted a number of changes introduced to help deal with consequences of coronavirus. For example the scheme of delegation to Planning Committee had been changed to reduce the number of applications referred to the Planning Committee, and the consultation on the Tiptree Neighbourhood Plan had been withdrawn.

Members of the Committee paid tribute to the work of the Planning and Housing teams in ensuring that processes continued to operate, despite the limitations imposed by coronavirus. Some concern was expressed by Councillor Moore about the public perception of the online Planning Committee meeting and she expressed a wish for face to face meetings to return as quickly as possible.

*RESOLVED* that:-

- (a) The revisions made to the Statement of Community Involvement as shown in Appendix One of the Assistant Director's report to reflect the specific requirements arising from national guidance and procedures on dealing with coronavirus implications be agreed.
- (b) The updated Statement of Community Involvement be published on the Council's website.
- (c) Authority be delegated to the Lead Officer: Planning, Housing and Economic Growth authority to make changes to the Statement of Community Involvement if circumstances change to allow plan making and decision making to continue.