

# Local Plan Committee

## Monday, 16 December 2019

**Attendees:** Councillor Lewis Barber, Councillor Nick Barlow, Councillor Tina Bourne, Councillor Phil Coleman, Councillor Andrew Ellis, Councillor Chris Hayter, Councillor Patricia Moore, Councillor Lee Scordis

**Substitutes:** No substitutes were recorded at the meeting

**Also Present:**

### 182 Have Your Say!

Sir Bob Russell addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He referred to the recent planning appeal decision in relation to Queen Street, Colchester and his disappointment with the outcome. He wished it placed on record that Middlewick Ranges was not a brownfield site, that it be confirmed that the site had been included in the Local Plan due to a decision of the Ministry of Defence (MoD) to dispose of the firing range. He preferred the allocation in the Plan for 1,000 units on the site in comparison to the 2,000 units originally proposed by the MoD but he was concerned that future efforts would be made to deliver a greater number of houses than currently allocated. He advocated a scheme including the creation of a country park on the area fronting Abbots Road, development south of the Firing Butts but with no coalescence which would link the existing communities of Old Heath, Monkwick and Berechurch. He acknowledged the need for access improvements to Abbots Road but emphasised this would not resolve existing, nor future, traffic issues.

Karen Syrett, Planning and Housing Manager, confirmed, as stated at previous Committee meetings, that Middlewick Ranges was a greenfield site, not brownfield, and the Council's view that the site was not suitable for 2,000 homes. She further explained that more on evidence-based work to inform more detailed plans was currently awaited, including ecology work which would help to determine where development could take place.

Councillor Barber sought clarification regarding the allocation of Middlewick Ranges in the Local Plan and the potential for the Council to have opted instead to allocate an alternative site or various alternative sites which would be capable of delivering 1,000 units.

The Planning and Housing Manager, confirmed, that the Middlewick site had been identified very late in the process and, as such, hadn't received the same scrutiny as

other sites, meaning it had been given a different allocation to the other residential allocations. She confirmed that if Middlewick had not been included in the allocations the Council would have been looking for other sites to deliver the required 1,000 units.

**183 Local Plan Committee minutes 21 October 2019**

The minutes of the meeting held on 21 October 2019 were confirmed as a correct record.

**184 Local Plan Update**

Ian Vipond, Executive Director, provided a verbal update on the current situation regarding the Local Plan. He explained that for the next stage of the examination process the bulk of the evidence had been submitted to the Inspector and various parties, including the Local Authorities, had produced statements which had been published online. The Local Authorities' Statements of Common Ground had also been published. He confirmed that 16 December 2019 was the deadline for the North Essex Authorities' comments to the Inspector arising from other parties' statements and these would be published online later in the week. This therefore had concluded the submissions to the Inspector and the examination would be resumed on 14, 15, 16, 21, 22, 23 and 30 January 2020.

Councillor Ellis referred to one of the pieces of evidence submitted to the Inspector which demonstrated that, at 31 March 2019, the Council had already exceeded its housing target, he asked when the Council had become aware of this statistic and why the Committee had been informed that the development of garden communities was the only option for the Council to secure the 7,500 housing shortfall across Essex and the 2,500 shortfall in Colchester. He referred to the considerable funding already provided to deliver the garden community projects and asked why it was necessary to continue with these projects.

The Executive Director explained that the table setting out the housing numbers was a combination of planning permissions and the allocations in Section 2 of the Local Plan. He referred to the objections which had been submitted to the housing numbers allocated to sites in Section 2 and explained the requirement for a Local Plan to specify a minimum housing provision, together with a requirement for flexibility with the housing numbers. He also explained that, if the Council did not proceed with the current Local Plan currently under examination, the Council would be assessed in accordance with the new housing number calculations contained within the latest version of the National Planning Policy Framework (NPPF) which would require an additional 200 houses to be added to the current housing target for each of the forthcoming fifteen years. He also confirmed that the new housing calculations would apply when the current Local Plan was reviewed in five years' time and that this was likely to require, in very broad terms,

an extra housing target of approximately 7,500 homes. He emphasised, therefore, the need for sufficient flexibility to be built into the housing numbers and the inevitability that the anticipated peak delivery of 600 houses per year from the Garden Community projects would be required. He also commented that, at the Section 2 Local Plan examination, it was highly likely that developers would be making representations in support of additional housing and he was of the view that the Council needed to ensure there would be sufficient flexibility in housing numbers to defend those representations.

Councillor Ellis questioned whether the flexibility requirement had been built into previous Local Plan processes and whether this approach had been adopted by other Local Authorities. He commented on the historical under-delivery of housing targets by both Braintree and Tendring in contrast to Colchester's record of over-delivery and whether there was any merit to be gained from over-delivery. He strongly regretted that the Local Plan Committee had not been given the opportunity to consider the question of flexibility and over-delivery of housing numbers and speculated what the Committee's view may have been had this not been the case. He further commented on the use of windfall allowances in their Local Plan by other Local Authorities and that the annual average of 260 windfall sites in Colchester would contribute greatly to development over a 15-year period and would provide for substantial over-delivery.

The Executive Director confirmed that the housing numbers for Colchester had not yet been met and he explained that, in his view, Colchester had not over-delivered but, on average, had successfully delivered on target. He could not comment on whether the Council had received credit for consistently meeting its target but, in terms of defending the five year housing land supply at appeals, the Council was permitted to meet a buffer of 5% in contrast to others who are required to demonstrate a 20% buffer. He was of the view that this was a significant factor in the Council not having lost a major housing appeal within the last 10 years. He acknowledged that the Committee may not have been required to consider the need for flexibility in delivering its housing numbers but considered the current status of the Local Plan in relation to the current NPPF had put the Council in an unusual situation. He went on to explain the likelihood that the last 10 years of the current Local Plan would require a higher housing number than the actual housing need calculation.

The Planning and Housing Manager further clarified that the current total of planning permissions and housing allocations was continually changing, as new sites lapsed and others came forward. She confirmed that Local Authorities were required to provide a minimum of housing units and for the currently adopted Local Plan a number of greenfield sites were included as a contingency but had ultimately been brought forward. She explained that the Council's previous over-delivery meant that the Council had been provided with a lower housing target for the period 2008 to 2021. However, under the current methodology, over-delivery did not stand in the Council's favour. She referred to a recent presentation on the Housing Delivery Test which showed that Colchester was one of four Council's which had received no sanctions for the year. She also explained

that the draft Local Plan included 200 houses at a site in Tollgate, Stanway which was now the subject of an alternative permission and, as such, it would be necessary to identify an equivalent 200 units from elsewhere.

Councillor Ellis congratulated the Planning and Housing Manager on her and her Team's success at defending Appeals. He understood that an equivalent 200 units in Stanway had already been identified and that flexibility in housing numbers was required to be built into the emerging Local Plan for Braintree and Tendring but he had been unaware that this was also a requirement for Colchester and did not consider it to be a usual requirement for the majority of Local Plans that he had seen. He also referred to the declaration of a climate emergency and considered this to be a material change to the Council's plans for future development.

The Executive Director confirmed that the Inspector would make an assessment of the issues and he considered this to be more likely in respect of Section 2. He referred to the Sustainability Appraisals which continued to find the Garden Community proposals more sustainable than dispersed development and he considered the Committee had previously ruled out proposals involving a range of ad hoc sites in villages and settlements across the borough. He therefore considered that the Garden Community proposals to be the best form of sustainable development for the current and future Local Plan periods.

Councillor Ellis was of the view that the climate emergency declaration imposed a requirement to consider development in a different way to reduce reliance on the car and to move away from creating car dependent communities. He referred to village communities who were acknowledging this issue by accepting new development in order to attract improved bus provision. He also voiced his concerns that the Garden Community proposals would fail to be considered the most appropriate strategy by the Inspector.

Councillor Barber acknowledged the need for Garden Communities to be considered, particularly given the requirement for flexibility in housing numbers although he considered the Committee should have had the opportunity to consider a range of strategies. He was also of the view that the option to bring forward the consideration of Section 2 of the Local Plan would have provided an opportunity to give the Garden Community proposals more detailed consideration. He also explained his concern that the Garden Community proposals, once commenced, would require a long-term commitment of up to 80 years for them to reach their conclusion.

Councillor Moore regretted the inclusion of the Garden Communities proposals within the Local Plan and considered that the Council will have lost credibility with the public as a consequence.

Councillor Scordis asked for clarification on the number of Local Authorities which were

using a similar large-scale strategy within their Local Plans and whether there was a risk that a flexible approach to housing numbers was likely to lead to over-development.

Councillor Bourne referred to the Council's housing needs register, the affordability of housing for younger people and the potential for development to take place on land adjacent to Colchester borough but within the border of a neighbouring Local Authority. In this context, she welcomed the Garden Communities proposals and considered that extensive debate on this strategy had taken place at meetings of the Committee and it had been the subject of numerous separate briefings. She considered that the direction to be pursued to provide the housing needed in the borough had been agreed and she voiced her concern that the declaration of a climate emergency was now being cited as a reason not to develop in certain areas. She did not consider further development of the urban areas of the borough to be an acceptable solution as an alternative to the Garden Communities proposals.

The Executive Director explained that the credibility of the Local Plan had to be demonstrated to the Inspector. He acknowledged that previous versions of the Local Plan would have contained more precise numbers of houses planned to be delivered. However, the Government had confirmed a housing crisis in the country and had placed pressure on Local Authorities to collectively deliver 300,000 houses each year. He commented that, in this context, planning Inspectors were required to determine whether a Local Plan was likely to deliver the number of houses required of each Local Authority. He acknowledged that the five-year land supply was currently the subject of heavy scrutiny due to the current status of the Local Plan in the process and the Plan's allocated sites currently being unconfirmed. As a consequence, the Council's ability to successfully defend Planning Appeals was significantly dependent on successfully bringing forward further developments. He stressed the need for the emerging Local Plan to achieve adopted status and for the allocated sites to be confirmed to enable the five-year land supply to be successfully demonstrated.

*RESOLVED* that the Local Plan update provided by the Executive Director be noted.

## **185 Planning Obligations Supplementary Planning Document**

The Committee considered a report by the Assistant Director Policy and Corporate explaining that the Council had prepared a Supplementary Planning Document (SPD) on Planning Obligations, with the intention to consult on the SPD for a six-week period prior to incorporation of consultation comments and its return to the Local Plan Committee for adoption.

Laura Chase, Planning Policy Manager, presented the report and, together with Karen Syrett, Planning and Housing Manager, responded to members questions. The Planning Policy Manager explained that Councils were able to require planning applicants to provide financial contributions to mitigate development impacts under Section 106 of the

Town and County Planning Act 1990. In addition, the National Planning Policy Framework (NPPF) ensured that the collection of contributions was confined to measures that were required to mitigate the impact of development.

To ensure consistent and effective guidance the Council had prepared a Supplementary Planning Document (SPD) on Planning Obligations and it was intended to consult on the SPD for a six-week period prior to incorporation of consultation comments and its return to the Local Plan Committee for adoption.

The SPD set out a range of obligation types which may be required as part of any Planning Obligation Agreement. Each section set out the policy background to requiring such obligations, the relevant points at which they might be required, when the obligation was expected to be provided, any exceptions and any other relevant information. In addition, a range of topic areas were identified, including housing, sustainable transport, flood protection and water management; sports, recreation and leisure; green infrastructure; natural environment mitigation; historic environment and community infrastructure. The SPD also highlighted and cross-referenced to requests from other authorities for development contributions to ensure that this Council's requests were considered in the context of all other relevant requests. Essex County Council was updating its guidance on planning obligations and had carried out a consultation on a draft Developers' Guide to Infrastructure Contributions.

Councillor Moore sought clarification on the degree of flexibility contained in the Guidance in relation to contributions across the topic areas for any given development.

The Planning Policy Manager confirmed that the SPD did promote flexibility by means of the work of the Development Team in assessing the package of contributions for any one planning application. She also explained that some elements had formulas attached which acted as a starting point for contribution negotiations. She also explained that it was now recognised that viability was assessed inclusive of any relevant contributions.

Councillor Barber recollected a presentation received at a previous meeting of the Committee from representatives from the North Essex Clinical Commissioning Group (NECCG) who had referred to restrictions imposed on the number of development proposals which could be requested by the statutory health consultees.

The Planning Policy Manager explained that the NECCG had been looking into new ways that health services were likely to be delivered, including shared spaces, and in this context had made reference to the restrictions on pooling which were contained in the Community Infrastructure Levy (CIL) Regulations but which had recently been removed. She also explained that the Council had been looking at different models of how to work with health care providers, including potential collaborations between Benefits, Health and Social Care and Essex County Council. In terms of the SPD it was intended to provide an enabling framework for the consideration of new approaches so

long as the impact of development was mitigated.

Councillor Ellis welcomed the SPD and referred to one advantage of Garden Communities proposals being the increase in land values, from which the infrastructure would be delivered. He commented on the AECOM evidence submitted to the Inspector which highlighted a £355 million infrastructure funding gap by 2036 as a consequence of not being able to capture funding contributions from developers. He sought clarification on the continued requirement to mitigate specific developments as opposed to adopting a blanket approach to mitigation and he also stated his strong view that local councillors and community members should be consulted at the very earliest opportunity on proposed developments and Section 106 contributions so that the views of the local community can be taken into account by the Development Team.

Councillor Barlow fully supported the view for ward councillors and community members to be involved at the earliest opportunity in Section 106 negotiations and was of the view that this needed to be taken forward as a matter of priority.

The Planning Policy Manager explained that it was still an option for the Council to adopt the CIL once an adopted Local Plan was in place whilst explaining that it had advantages and disadvantages for Colchester and other Local Authorities.

The Planning and Housing Manager confirmed that a blanket approach to mitigation was intended for small scale developments, such that pooling of contributions could now take place for small developments, as such applications were required to be submitted together with a unilateral undertaking to confirm the provision of the mitigation. She welcomed the suggestion for some local involvement in the assessment of Section 106 contributions, in relation to the Communities and the Parks and Recreation elements. She acknowledged it would be late in the process, but she confirmed that all Section 106 contribution heads of terms were presented to the Planning Committee which did provide an opportunity for review by ward councillors at that stage.

Councillor Coleman referred to the link between population increase and pressure on facilities and asked for clarification on the latest published population statistics.

The Planning Policy Manager confirmed that the 2011 census continued to be relied upon currently, but mid-year population projections were available which she would arrange to forward to councillors after the meeting.

Councillor Bourne advocated the provision of school places in the right areas, citing school children being driven to schools, together with siblings being split between different schools. She considered improvements needed to be made in the timely planning of school places in areas where they were needed. She explained there was an extreme shortage of nursery school places and she was concerned about the impact on congestion in the town due to the need for children to travel distances to get to school.

She referred to co-location and integration of services and sought clarification on these policies could be used to good effect in relation to school places.

The Planning Policy Manager acknowledged collaboration with Essex County Council (ECC) in relation to education, social care and highways, confirming that there was close working between the two Authorities. She explained that ECC was currently updating its policy on planning obligations and discussions were beginning in relation to co-location and there was an aspiration for a more joined-up approach, but more detailed consideration needed to take place.

The Planning and Housing Manager acknowledged the issues around school place provision and attributed this to catchment area issues and freedom of choice for parents. She explained that Colchester had offered to act as 'treasurer' for ECC planning obligations funding whilst specific projects remained to be identified with the intention that the finds would be retained for the area of the development and not lost to a project elsewhere. She supported the co-location of services whilst acknowledging difficulties at planning application stage when a named provider had yet to be identified

Councillor Moore referred to the potential for a school bus system to be introduced along the lines of the system that successfully operated in the USA and asked whether Section 106 funding could be used for this purpose.

The Planning and Housing Manager confirmed that Section 106 funding had been used for school transport services, but this was likely to have been for large scale developments to facilitate transport from a distance away to a school with capacity, pending the opening of a nearer school.

Councillor Ellis sought clarification regarding the submission of the results of the consultation exercise back to this Committee, the ability of the Committee to comment on the document at that stage and when that was likely to happen.

The Planning and Housing Manager confirmed that the consultation was due to commence in January and, whilst she could give no assurance, it may be possible to arrange for this to commence slightly earlier to provide more time if the Committee was keen to consider the document again at its meeting in April.

Councillor Bourne referred to the Health and Well-being Statement and asked about the potential for the NECCG to be invited back to the Committee to provide an update on the current situation on the integrated care system. The Chairman supported this suggestion and suggested arrangements be made for this to be delivered in the form of a briefing for the Committee.

*RESOLVED* that –

- (i) The publication of a Planning Obligations Supplementary Planning Document



(SPD) for a six-week consultation period from 24 January to 6 March 2020 be approved and authority be delegated to the Planning and Housing Manager to make minor revisions to the document prior to publication;

(ii) In order to facilitate the submission of the results of the consultation to the Committee's meeting in April, the Planning and Housing Manager be authorised to commence the consultation period earlier than 24 January 2020, subject to other work commitments

## **186 Affordable Housing Supplementary Planning Document and Self and Custom Build and Specialist Housing Supplementary Planning Document**

The Committee considered a report by the Assistant Director Policy and Corporate explaining that the Council had prepared a separate Affordable Housing Supplementary Planning Documents (SPD) due to its national and local level of importance and a second Self and Custom Build and Specialist Housing SPD covering other specific types of housing contributions.

Bethany Jones, Planning Policy officer, presented the report and, together with Laura Chase, Planning Policy Manager and Karen Syrett, Planning and Housing Manager, responded to members questions. The Planning Policy Officer explained that Local Planning Authorities are able to request affordable housing, self and custom build housing and specialist housing from planning applicants to meet the needs of different groups within the community in line with paragraph 61 of the National Planning Policy Framework (NPPF). This is further outlined for self and custom build provision via the Self Build and Custom Housebuilding Act 2015. To ensure consistent and effective guidance, the Council had prepared a separate Affordable Housing SPD due to its national and local level of importance, and a Self and Custom Build and Specialist Housing SPD which covered other specific types of housing contributions. It was intended to consult on the SPDs for a six-week period, prior to incorporation of consultation comments and be returned to the Local Plan Committee for adoption.

Both SPDs set out the policy background, evidence base, delivery and example Section 106 agreements. The SPDs also provided the context of when and how these specific housing types could be delivered across the Borough which was intended to ensure that, in line with national and local policy, these specific types of housing were secured through the planning application process in order to meet the needs of the local community.

The Affordable Housing SPD outlined the affordable housing provision for above policy threshold sites, rural exception sites, vacant building credit and alternatives to only be considered in exceptional circumstances including off site provision and commuted sums. The Self and Custom Build and Specialist Housing SPD was divided into two main sections, the first detailing the delivery of different types of self-build, design requirements and how self-build could be delivered as affordable housing. The second

section detailed delivery of different types of specialist housing with particular reference to wheelchair users and delivery of specialist types of affordable housing.

The Planning Policy Manager explained that paragraph 4.5 of the Specialist Housing report would need to be amended but explained that this was due to the definition of gypsy being changed to including those actively travelling and seeking work. The original work had concluded a requirement for 15 pitches whilst the revised definition provided for a requirement of 13 pitches for those identifying as gypsies with an additional 2 pitches for gypsies actively travelling or seeking work.

Councillor Bourne referred to affordable housing types and tenure and sought clarification on whether this could be amended to state the Council's requirements for affordable housing rather than for it be in the form of a negotiation. She also referred to the pepper-potting of affordable housing and the delivery of good housing management which tended to be improved where sites were located together and integrated. She asked about the category of homes accessible for wheelchair users, student housing, the erroneous definition of social housing as set out in the Appendix to the report and she questioned the proportions of affordable housing, council housing and market housing.

The Planning and Housing Manager explained that social housing had been the generic term for housing which was available at less than market value/rent and subsequently this housing had been known as affordable housing despite it being acknowledged that there were several different tenures. She agreed to make arrangements to amend the social housing definition in the draft document to address the Councillors concerns. She referred to the pepper-potting of affordable housing in relation to the Strategic Housing Market Assessment, the expectation that housing development will be tenure-blind and the negotiations with developers where certain circumstances were required at specific sites. She acknowledged there was a move away from pepper-potting of affordable housing and she agreed that more flexibility was desirable. She also acknowledged the need to amend the wording in relation to the mix of affordable housing to reflect that 80% would be affordable or social rented and 20% would be other tenures such as shared equity.

Councillor Barber sought clarification about student housing being exempt from developer contributions for affordable housing.

The Planning and Housing Manager explained that this exemption was likely to be related to nominations and students not being on the housing register.

Councillor Ellis supported the comments made about pepper-potting of affordable housing and the definition of social housing and commented on the delivery of only 10.7% of affordable housing despite the Council's target for 20%, now rising to 30%. He asked about the 80/20 split and the views of the North Essex Garden Communities Ltd

(NEGC) that this was no longer possible due to a change in legislation.

The Planning and Housing Manager referred to a range of initiatives to achieve delivery of affordable housing, including contributions for the delivery of housing elsewhere, the New Homes Bonus which could be used to purchase properties, the Right to Buy Back and the development of Council garage sites. She also agreed to clarify the policy stated in the NPPF relating to the affordable housing mix.

*RESOLVED* that –

- (i) The publication of the Affordable Housing SPD and Self and Custom Build and Specialist Housing SPD for a six-week consultation period from 24 January to 6 March 2020 be approved and authority be delegated to the Planning and Housing Manager to make minor revisions to the document prior to publication;
- (ii) In order to facilitate the submission of the results of the consultation to the Committee's meeting in April, the Planning and Housing Manager be authorised to commence the consultation period earlier than 24 January 2020, subject to other work commitments

## **187 Authority Monitoring Report**

The Committee considered a report by the Assistant Director Policy and Corporate giving details of the Authority Monitoring Report which provided an annual summary of key statistics allowing the Council to monitor the effectiveness of its Local Plan.

Bethany Jones, Planning Policy officer, presented the report and, together with Karen Syrett, Planning and Housing Manager, responded to members questions. The Planning Policy Officer explained that the Authority Monitoring Report provided an annual summary of key statistics that allow the Council to monitor the effectiveness of its Local Plan. The key statistics for the monitoring period 1 April 2018 to 31 March 2019 included:

- 1,659 planning applications received;
- 1,165 homes completed;
- 110 new build affordable units delivered;
- 41% of new or converted dwellings built on previously developed land (brownfield);
- Potential net loss of -2,587 square metres of commercial floorspace, and potential net gain of + 5,820 square metres of commercial floorspace resulting in a net balance of +3,233 sqm if all applications were implemented;
- Council adoption of 46,182m<sup>2</sup> additional areas of open spaces;
- Funding from DEFRA to manage a two-year community project focusing on behavioural change by encouraging walking and cycling for short journeys and switching off engines when not moving (idling).

Councillor Barber referred to issues around walking and cycling in Colchester and the

work progressing to improve joint working between Essex County Council (ECC) and this Council and he suggested another opportunity be taken to invite ECC officers to a future meeting of the Committee. He also referred to the information sent to ward councillors on the results of air quality monitoring and the potential for this information to be used to apply to the Local Highway Panel (LHP) for funding for improvement schemes. He considered it would be useful for Councillors to receive regular updates illustrating where the 'hotspots'/problems are in the Borough and for the data to be considered at a future meeting of the Local Plan Committee.

Councillor J. Young, Portfolio Holder for Culture and Performance, attended and, with the consent of the Chairman, addressed the Committee. She confirmed that the LHP had considered the issue of cycle improvements and more collaboration between ECC and the Borough. She referred to the need for a range of improvements along the route from Colchester North Station into the town centre, including cycle and air quality improvements. She supported the aspiration for the Committee to be involved in a range of issues to inform how the Council should move forward, so long as the work of other Council Groups such as the Conservation and Environmental Sustainability Task and Finish Group and the Policy and Public Initiatives Panel (PPIP) was not compromised.

The Planning and Housing Manager referred to the forthcoming consideration of cycling security at the next meeting of the PPIP and the potential for this to be widened to include clarification on current ECC and this Council's strategies relating to walking and cycling, a suggestion which was supported by Councillor Coleman.

Councillor Ellis acknowledged the potential for the work of other Council groups to be compromised and suggested that, for issues which had an impact on the responsibilities of more than one Committee or Panel, a collective briefing rather than a formal meeting be arranged. He also supported the view that the Borough Council needed to be involved in the decision making around highway infrastructure proposals locally.

*RESOLVED* that the 2018-19 Authority Monitoring Report (AMR) be approved for publication on the Council's website.