

SCRUTINY PANEL

11 June 2019

Present: - Councillor Davies (Chairman), Councillor Bentley, Councillor Bourne, Councillor Hayter, Councillor Hogg, Councillor McCarthy, Councillor Whitehead

Substitutions Councillor Willetts for Councillor Dundas

Also present:- Councillor Cory, Councillor King, Councillor Luxford Vaughan

208. Minutes

RESOLVED that the minutes of the meetings held on 19 March 2019 and 22 May 2019 be confirmed as a correct record.

Councillor Bentley (by reason of being Essex County Council Cabinet member for Infrastructure) and Councillor King (by reason of being a Director of North Essex Garden Communities Ltd) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7 (5).

209. North Essex Garden Communities Project

Mr Coode-Adams addressed the Panel pursuant to the provisions of Meetings General Procedure Rule 5(1) to raise concern at the risks that this project would represent for the public and local authorities, at the potential need for large-scale borrowing to fund it and about matters raised by the redacted Price Waterhouse Coopers (PwC) report on the project. Mr Coode-Adams recommended that the Panel request unredacted copies of this report. He expressed fears that there is and would be a lack of control over the project by elected members and that the development corporation would not be subject to oversight by local authorities and scrutiny by the public. Mr Coode-Adams encouraged elected members to insist upon receiving a full business plan and financial appraisals for the project.

Mr Sunnucks addressed the Panel pursuant to the provisions of Meetings General Procedure Rule 5(1) to request an explanation as to why no additional financial data had been provided, following his request made at the Panel meeting on 19 March 2019. He further requested confirmation that the money due from central government and the local authorities involved in the project been received for 2018/19 and detail as to who authorised the payment from Colchester Borough Council. He recommended a 50-year financial appraisal and model and called for evidence giving assurance that spending is economically efficient. Concern was raised that either infrastructure promises would not be met, or the scale of the project would need to reduce, based on similar projects attempted

elsewhere. Full release of financial information to councillors would be vital for proper scrutiny before decisions are made on the project.

Councillor Luxford Vaughan attended and with the consent of the Chairman addressed the Panel to express her concerns regarding accountability. A response was requested to questions she had previously raised directly with North Essex Garden Communities (NEGC) Ltd. Concern was voiced that spending was going ahead without a confirmed business plan in place and that the setting up of a locally-led development corporation (LLDC) would leave local authorities with no planning or financial control. Councillor Luxford-Vaughan requested a clear explanation of what powers councillors will have over this, what spending is involved and who makes decisions, as well as details of plans to potentially use compulsory purchase orders for land. She requested the unredacted 2016 PwC report, NEGC Ltd's current strategic risk register and plain-English, past and present financial reports. Councillor Luxford Vaughan also sought assurances regarding the information that Cabinet received before deciding upon a dedicated delivery structure and raised the statutory requirements for setting up an LLDC and local authority oversight.

Councillor Luxford Vaughan asked why Essex University appeared to garner greater consideration than other stakeholders which could be affected by the development of garden communities.

Councillor King, Portfolio Holder for Business and Resources, Ian Vipond, Strategic Director for Policy and Place, and Richard Bayley, Group Manager of NEGC Ltd attended to present the report..

Councillor King described the work being done by the NEGC Ltd Board to ensure that infrastructure and community facilities are provided within the Project. He agreed with the importance of providing as much transparency as possible (excluding commercially-sensitive matters), informing the Panel that he wished to hold regular all-member briefings, to cover the work and financial information of the publicly-owned NEGC Ltd. Assurances had been sought and provided on the value-for-money of NEGC Ltd's spending, and the Section 151 Officers of each shareholding local authority have scrutinized the company's accounts.

Councillor King explained that long-term planning and evaluation of sustainability would be conducted over the coming year and would be informed by future input from the Planning Inspector considering the Local Plan.

Councillor King agreed to provide a report to all councillors following each meeting of the NEGC Ltd Board and explained that he planned to circulate weekly updates to councillors, covering NEGC issues and progress on the Local Plan.

Addressing accountability concerns, Ian Vipond highlighted that there is almost no councillor involvement and oversight of private developments once they are approved, in contrast to the oversight and leadership roles that the local authorities will have in relation to NEGC Ltd. Transparency is an integral part of the planning process, with all information and documents used within it to be made public. Mr Vipond offered to meet again with Councillor Luxford Vaughan to address her questions. He agreed that jargon should be avoided in documents for scrutiny by councillors and the public.

An 'in principle' decision has been made by Cabinet to consider different types of development vehicles and mechanisms, but a final decision was yet to be made regarding

the use of a delivery vehicle. Each local authority would need to approve the method for proceeding with this.

Richard Bayley agreed with the need for inclusivity regarding the work of NEGC Ltd. and expressed readiness to work with local authorities and councillors on communications and dialogue. All-member briefings had been used successfully as part of other development processes. Mr Bayley recommended that these be held prior to key decisions, to provide councillors with information and assurances. Efforts would be made to ensure briefings are written in an accessible fashion, and jargon minimised. Certain decisions would however need to remain confidential, especially where these involved third parties.

Richard Bayley discussed the risk inherent in any development venture and gave assurance that this would be assessed as part of the options appraisal within the decision-making process regarding development vehicles. This would comply with duties relating to risk assessment and expectations laid out within the Treasury's Green Book.

Addressing a concern raised by Mr Coode-Adams regarding the format of the 2018 NEGC Ltd AGM, Mr Bayley explained that this had been a specific procedural meeting for shareholders, but that it had been followed by a public meeting open to all.

In response to Mr Sunnucks' request that a 50-year financial appraisal be carried out, Richard Bayley gave assurance that this was already underway and would assess the venture's long-term viability. This would form part of the options appraisal and decision-making by the councils in the coming months. In reply to Mr Sunnucks' concerns stemming from specific previous projects, Mr Bayley clarified that they were not comparable as those had involved land already owned by the local authorities involved.

Mr Bayley gave clarification that an interim business plan was currently in use by NEGC Ltd as the company was not yet in a position to draft a five-year business plan. Finances went through the budget procedures of the shareholding local authorities. All funds due from authorities and central government had been received for 2018/19 and year-end finance data had been made available. The Panel was given assurance that NEGC Ltd would work with local authorities to ensure all councillors were provided with regular 'Plain English' briefings on the company's work and finances. Richard Bayley promised to provide a response to the questions from Councillor Luxford Vaughan which had yet to be addressed.

Richard Bayley informed the Panel that it would be possible for NEGC Ltd. to provide a 'Plain English' version of the interim business plan within the next month, alongside the documentation and data which could be provided to the Panel.

Public and stakeholder engagement was explained and included work carried out with the University, local businesses/employers, the Haven Gateway Partnership, Homes England, Stansted Airport and local port authorities. Future public engagement would be more interactive and would be run as a three-sequence process over 18 months after the local authorities had gone through the sustainability and options assessments.

Regarding the 2016 PwC report, Mr Bayley and Councillor King informed the Panel that advice would be sought as to whether councillors could be provided with an unredacted copy, and it would be done if possible. A Panel member posited that councillors were entitled to see full copies of such reports, even if this required them to sign confidentiality agreements. The Panel also requested that full financial reports should be sent to all councillors. Richard Bayley confirmed he would work to provide the financial data they

require but that each share-holding local authority would need to agree to the terms of what data is made available. A request was made by the Panel for updated financial modelling to be provided. Ian Vipond agreed to make this available and explained that it would be done as part of the viability assessments. There will be briefings held for councillors prior to this, covering a range of issues including the viability assessments.

Richard Bayley outlined the oversight and control arrangements over LLDCs. The three-level structure consists of local authority oversight and control, oversight by the development corporation board (independent and local authority-appointed directors) and lastly oversight within the development vehicle/s. Oversight of stewardship and legacy issues were explained and identified (e.g. affordable housing, community facilities, energy supply). This would give local authorities certain greater control over decision making. A member of the Panel requested that a full explanation of this structure, and the powers held by councillors, be circulated to all councillors prior to a decision being made as to whether this approach should be agreed to.

Richard Bayley informed the Panel that there were alternative options to the model he had described, and that these would be examined within the options appraisal process. This would be conducted later this year. Councillors would receive details on this in preparation for this. It was confirmed that the Scrutiny Panel would be able to scrutinise the options appraisal process, should it wish to. Panel members discussed the importance of ensuring Scrutiny Panel conducted regular effective scrutiny of the NEGC Project, and the need for training to be given to allow members to conduct this.

The Panel discussed spatial planning and infrastructure provision within the Project and its crucial nature. A member of the Panel highlighted the Essex County Council report which predicted that in 20 years' time there would be an infrastructure deficit of £553m within Colchester Borough. Richard Bayley agreed that provision of infrastructure and employment opportunities are a key part of the NEGC Project and explained the work being carried out on these. Costings of planned work have been confirmed and are ready for appraisal by the Planning Inspector. A Panel member asked when councillors would be informed of the infrastructure being proposed for delivery within the NEGC Project. Richard Bayley explained that NEGC Ltd will respond within the Local Plan process, which requires the local authorities to assess the sustainability appraisals for the Project. The infrastructure plan and financial details will be published when the revised Local Plan viability evidence is submitted to the enquiry. Delivery options will then be appraised.

Richard Bayley informed the Panel that the objective was to produce well-connected, walkable communities, with good connections to other areas and infrastructure that included healthcare and educational facilities. Clinical commissioning groups have been met with to discuss facilities for health.

Questions were raised by the Panel relating to the number of additional jobs expected to be created and employers attracted to the area, the work being done by NEGC Ltd to achieve this and the amount of land being set aside for employment-creation. Richard Bayley explained that there were a range of options being discussed and confirmed discussions were ongoing with employers. He explained that this would be addressed within the master planning to be conducted over the next 18 months. This would cover employment creation and land for employment. Sectors approached by the Project so far include technology (with opportunities around the University), energy providers (especially 'green' energy) and sectors which would benefit from easy links to Stansted and/or Cambridge. This would lead to an improvement in economic performance across North Essex. It was important that the

master-planning process be inclusive of the public and potential employers so that appropriate layout options are included to allow employment opportunities. Current targets for employment land in the developments would be flexible to allow for increases, should there be greater-than-expected interest from potential employers.

The Panel noted NEGC Ltd's position as both having development and planning responsibilities and queried this. Richard Bayley confirmed that he understood the position of NEGC Ltd, and that the company's aim is to build communities rather than just houses.

In response to questions on the three possible delivery options and their respective risk profiles, Richard Bayley explained that risk and benefits analysis would be conducted by the NEGC Ltd Board when it considered the delivery options appraisals. He described the three vehicles and the different risk profiles. A Panel member asked questions relating to potential financial risks which may emerge from land purchases being land-banked until later stages of the Project. Richard Bayley explained the phased approach which had been used in an earlier project he had been involved with in Basingstoke, where long leases had been granted by the land owner to the local council, and the council then took a phased tranches approach to development. Mr Bayley answered questions relating to phased purchases of land, and whether this would increase the value of land in later sales. Options available to address this include compulsory purchase orders and/or private agreements with landowners.

Councillor King was questioned as to alternatives, should the Planning Inspector reject the approach proposed. He explained that the Cabinet would need to immediately discuss options to put forward, should this occur.

Changes in the administration of partner councils were raised by the Panel, their potential effects on the investments due to be made by them to NEGC Ltd, and the risk management implications. Richard Bayley, Councillor King and Ian Vipond answered points raised. They highlighted that income from government and local authorities in 2018/19 had been received, gave assurance that local authorities have affirmed support for the NEGC Project, and confirmed that the Project was not dependent on funding from any single one of the individual councils involved in the Project. Ian Vipond expanded on this to explain that Uttlesford District Council were understood to be proceeding to examination with the Local Plan which include the NEGC Project.

A Panel Member queried differences between the original 2018/19 financial information and the year-end figures circulated to the Panel prior to the meeting. Richard Bayley explained that changes occurred due to the agreed slowing of work following Christmas, a vacancy factor from one seconded officer leaving and others reallocated to work on the Local Plan. Further savings had also been made relating to indirect costs incurred.

The Panel requested that copies of each of the development sites' financial viability appraisals be made available to the Panel for scrutiny, especially those within Colchester Borough. Richard Bayley confirmed that the Panel would be taken through the appraisals and would provide scrutiny at the appropriate juncture, and that he would liaise with Council officers to confirm the correct process and protocols.

The Panel discussed the need for better public presentation of the Garden Community Project, to reduce negative perceptions and emphasise the improvements which are being sought. Members of the Panel requested that the expected formal business plan provides better content on why this Project is being proposed, and the current problems it aims to

mitigate. This, alongside user-friendly documents, will assist councillors to understand the Project and explain it to their constituents. Councillor King agreed that it was vital to agree and show the narrative for this project, and that Cabinet would work to improve clarity, information-sharing with councillors and ensure that public scrutiny would be effective and an important part of the oversight process. He further pledged to provide a clear calendar of future key moments and events in the Project's future.

Panel members highlighted uncertainty regarding planned upgrades to the A12 and A120 which may affect the proposed garden communities. Richard Bayley confirmed that this was not in NEGC Ltd's power to control, but that its input would be given to consultation by Highways England later in 2019. Mr Bayley stressed the importance of the link road proposed between the A120 and A133. Ian Vipond expanded on this to explain that the local authorities involved and the Local Plan all stress the need for upgrades to these main road links. This would be raised with the Planning Inspector once the Garden Communities plans reach the next phase of examination.

Regarding 'Legacy and Stewardship', a Panel Member requested that NEGC Ltd. encourage community investment companies and co-operatives to participate from the outset. Richard Bayley agreed the importance of this and set out a three-stage public/community engagement process for the future.

RESOLVED that:-

- (a) The Panel noted the report and expressed its thanks to Richard Bayley, Ian Vipond and Councillor King
- (b) The Scrutiny Panel to scrutinise the delivery options appraisal and process, prior to its consideration by Cabinet and for NEGC Ltd to appear before the Panel on at least an annual basis.
- (c) Training to be provided to the Panel to help their scrutiny of NEGC Ltd.

RECOMMENDED to Councillor King, Portfolio Holder for Business and Resources that:-

- (a) The unredacted 2016 PwC report be provided to the Panel within a month of the meeting;
- (b) A report to be provided to all councillors following each meeting of the NEGC Board;
- (c) The financial viability appraisals for the development sites to be provided to the Panel;
- (d) A 'Plain English' summary of the Government guidance relating to setting up development corporations and oversight/decision-making powers of elected members be provided to all councillors within a month of the meeting;
- (e) Quarterly briefings on the NEGC Project to be provided for all councillors;
- (f) To consider the need for better public presentation of the Garden Community Project, to reduce negative perceptions and emphasise the improvements which are being sought and to ensure that the NEGC Business Plan reflected this by including information on why this Project was being proposed, and the current problems it aimed to mitigate.

210. Year End 2018/19 Performance Report including progress on the Strategic Plan Action Plan 2018-21

Dan Gascoyne, Chief Operating Officer, introduced this report alongside Councillor David King, Portfolio Holder for Business and Resources. He highlighted and explained those key performance indicators (KPIs) which had been rated 'red' (where targets were not met).

KPI K1H5 (Average time to re-let Council Homes) had not met its target due to the initial contractor for CBH not being able to meet its obligations. A new contractor was appointed on 12 April and the situation is improving. The Panel were informed that a low rate of void properties and a high proportion requiring significant work following long tenancies had increased the average time to re-let. Dan Gascoyne acknowledged the missed target but noted that this target had been met last year (when there had not been contractor problems). This would be discussed with Colchester Borough Homes but the intention was to keep a challenging target for this KPI.

KPI K1P1 (Processing of Planning Applications – Major) had not met target due to loss of experienced staff and a number of appeals and referrals to the Secretary of State. The small number of major applications meant that a delayed application has a significant effect on the KPI. Richard Block agreed to provide more detail regarding this after the meeting.

KPI K1R3 (Sickness Rates) have proven problematic but short-term illness figures are improving. Long-term illness remains difficult to reduce, but this is being overseen by assistant directors across the Council. The Waste and Zone Teams have been particularly hit by long-term sickness. Richard Block, Assistant Director – Environment, in particular is working to address this. Mitigating action includes changing workloads to suit capabilities, identifying drivers for long-term sickness and working with employees to get them back to work as soon as possible. Councillor King stressed the importance of heeding and responding to results of staff surveys and supporting Council staff. A member of the Panel noted that this KPI target is always missed and that this should be considered when setting the future target so that this provides a reasonable aspirational target which portfolio holders and management can work to achieve. Dan Gascoyne confirmed that this had changed from 7.5 days per employee to 9, but with the plan to gradually reduce this back to 7.5 days over the next three years.

A Panel member queried to what extent sick leave taken had resulted from the work carried out by officers in their day-to-day duties and asked for detail on work being carried out to identify where this is occurring. Councillor King agreed to provide written detail regarding this. Analysis of this is ongoing, service by service, and certain service duties had already been identified as being more likely by their nature to have an effect on officer health. He informed the Panel that he would be reviewing this with Human Resources in coming weeks, but that CBC compared well to other public-sector employers. Richard Block underlined this point and reinforced the point that front-line staff working in hard conditions had fewer options for working flexibly or carrying out their duties whilst unwell.

KPI K1W1 (Residential Household Waste per household) is currently red but the rate of recycling is strong, with the Council third best performer in the region.

Councillor King noted that significant changes have been made in the style of presenting this performance data to improve clarity and understanding. The Council is performing well in comparison to other authorities against which it is benchmarked, and focus will be on the few under-target performance areas.

In response to questions, Richard Block explained that, regarding KPI K1W3 (Missed collections), each individual missed collection reported was counted as one report, irrespective of the number of properties which might be affected. There had been a spike in missed collections caused by a recent gastrointestinal illness which had caused some staffing difficulties. To mitigate future risks of this sort, Cabinet have approved work to improve the depot which will help increase hygiene and counter sickness issues.

The Panel noted strong performance in a range of KPIs, including rent collection, council tax collection, housing benefit claims processed, and affordable homes delivered.

RESOLVED that:-

- (a) The Panel noted the report;
- (b) Further information be provided by Councillor King , Portfolio Holder for Business and Resources, including a breakdown of sickness numbers and analysis carried out on sickness rates.
- (c) The Panel paid tribute to the work carried out by officers during 2018/19 which had led to overall good performance and successes.

211. Financial Monitoring Report – End of Year 2018/19

Darren Brown, Finance Manager (Business Partner), introduced this report covering the financial performance of General Fund Services and the Housing Revenue Account (HRA) for the year 2018/19. This was a draft position, with auditors onsite to confirm its contents.

Darren Brown highlighted that the forecast for 2019/20 had been made based on the expectation that the Council's outturn position would be on-budget for 2018/19. The year-end position had been better than expected for 2018/19 and the conditional surplus added to the Council's balances and would be considered by Cabinet in due course.

In response to questions regarding the level of Council reserves, Councillor King informed the Panel that the reserves levels were conservatively forecasted to be £1.9m, with an additional likely £300k. The level of reserves is now calculated to be £2.4m.

RESOLVED that the Financial performance during 2018/19 be noted

212. Capital Expenditure Monitor 2019/20

Mark Jarvis, Finance Manager (Technical) presented this report on the Council's Capital Programme for 2019/20 and highlighted the main points and figures.

The Panel enquired as to why the entry for Sheepen Road Phase 2 was marked as 'Red' (behind target) in Appendix A. It was clarified that Q3 had been 'Red' but that the year-end result was 'Green' (on-target). Confusion had been caused by the Q4 progress column being placed to the left of the column for Q3. Mark Jarvis agreed to switch these two columns in future reports to aid clarity.

RESOLVED that the report be noted

213. Work Programme 2019/20

The Panel considered the draft Programme for the municipal year. The Health and Social Care Alliance was recommended to be scheduled for the 6 August meeting, and the Chair proposed that the Bus Review item remain on the Programme for 16 July. Only Essex County Council had provided a written response to the most recent questions sent to stakeholders, so the Panel directed that these be resent to those yet to reply, including the service providers who had engaged in earlier stages of the Review, with a repeated request for their input.

A Panel member reminded the Panel that commitments had been relating to scrutiny of the NEGC Project which needed to be scheduled. Furthermore, a request was made for the Colchester Business Investment District (BID) to be invited to present their work to the Panel.

RESOLVED that the Work Programme 2019-20 be agreed subject to:-

- (a) The scheduling of the additional items relating to the scrutiny of NEGC Ltd, as set out in minute...
- (b) The Colchester BID to be invited to appear before the Panel.