

Cabinet

17 November 2021

Item

Report of	Monitoring Officer	Author	Andrew Weavers
Title	Establishment of a Joint Committee for Tendring Colchester Borders Garden Community		282213
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The Tendring Colchester Borders Garden Community (TCBGC) is located across Colchester and Tendring's Local Planning Authority's area; accordingly the Borough/District Councils can consider establishing a Joint Committee made up of members from each of their Councils.
- 1.2 Both Colchester and Tendring have now adopted a common Section 1 of their Local Plan, which has the shared vision of sustainable development and allocation of TCBGC, which will be further defined through a joint Development Plan Document (DPD) providing detailed parameters and policies (as required within Section 1 – Policies SP7 & 8).
- 1.3 Because of the joint nature of Section 1 there is a case to be made for a Joint Committee for Colchester and Tendring, and include members from Essex County Council, continuing with the existing partnership working on this project. This format has been adopted elsewhere and links into decisions around infrastructure and possibly other County matters.
 - (i) It is possible to delegate various functions to a Joint Committee but at this stage the proposed Terms of Reference would be limited to planning functions related to preparing for plan making through the DPD process; and
 - (ii) development control and determination of planning applications for TCBGC against the common Section 1 and adopted DPDs.
- 1.4 Essex County Council have also proposed to delegate their relevant planning functions to the Joint Committee for Tendring Colchester Borders.
- 1.5 The alternative to establishing a Joint Committee, is to leave the current arrangements in place such that Cabinet and/or the relevant Committee of both Councils would be involved in the decision making process for production of the Draft DPD. Once the DPD is adopted, the relevant Council's Planning Committee would deal with any individual planning application in their area. This latter option could present some complications associated with managing the practicalities, delay the process and it is considered beneficial to advance the joined up and partnership approach through to decision making.
- 1.6 The Tendring Colchester Borders Garden Community Member Group have assessed the various options and consider the joint committee approach for both the TCBGC joint DPD and Development Control functions will demonstrate the Councils continued partnership

commitment to delivering the Garden Community, provide increased confidence to the developers and remove delayed individual decision making through working together for the benefit of the residents in both areas.

- 1.7 The establishment of the Joint Committee will be limited to the TCBGC and all other local planning authority functions will remain unaffected and rest with Colchester Borough Council / Tendring District Council.
- 1.8 The proposed Terms of Reference of the TCBGC Joint Committee are set out in Appendix A and consequential amendments to the Borough Council's Local Plan Committee are set out in Appendix B.
- 1.9 Further executive functions related to the TCBGC can be delegated by the Leader, as the project develops and a partnership agreement may be deemed necessary between the Councils to formulate arrangements between them.

2. Recommended Decision

2.1 That Cabinet:

- (a) agrees that a joint Development Plan Document is being prepared with Tendring District Council and that that a Joint Committee is established with Tendring District Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community;
- (b) subject to (a) agrees that all three Councils should be represented on the appointed Joint Committee with full voting rights;
- (c) executive functions in relation to the preparation of the joint Development Plan Document are delegated to be discharged by the appointed Joint Committee in accordance with Sections 101(5) and 102(1)(b) of the Local Government Act 1972;
- (d) agrees each Council should be represented on the appointed Joint Committee with 3 members under Section 102(2) of the Local Government Act 1972, one of which will be a member of the Cabinet, appointed by the Leader;
- (e) agrees the Terms of Reference for the Joint Committee, as set out in Appendix A for recommendation onto Full Council in respect of non-executive functions;
- (f) endorses support to the Leader to delegate further executive functions to the for Tendring Colchester Borders Garden Community Joint Committee, in consultation with the Monitoring and Section 151 Officers;
- (g) delegates authority to the Assistant Director Place and Client Services, in consultation with the Leader and Portfolio Holder for Resources to enter into a partnership agreement between the Councils, if deemed necessary to support the operation of the Joint Committee and the Tendring Colchester Borders Garden Community project; and
- (h) Recommends to Full Council that:
 - (i) a Tendring Colchester Borders Garden Community Joint Committee is appointed for the discharge of executive and non-executive functions related to Tendring Colchester Borders Garden Community, pursuant to Sections 101(5), 102(1)(b) and

102(2) of the Local Government Act 1972 on the terms of reference attached at Appendix A and that the Council's membership be agreed by the Leader;

- (ii) the Council enters into an agreement with Tendring District Council under section 28 of the Planning and Compulsory Purchase Act 2004 in relation to the preparation of a joint Development Plan Document in relation to Tendring Colchester Borders Garden Community;
- (iii) Part 3 – Responsibility of Functions of the Constitution is amended to include the Terms of Reference of the Joint Committee; and
- (iv) The Terms of Reference of the Local Plan Committee be amended as set out in Appendix B and that the Constitution be amended accordingly.

3. Reasons for Recommended Decision

- 3.1 To ensure appropriate governance and decision making arrangements are in place between the partner Council's in relation to Tendring Colchester Borders Garden Community.

4. Alternative Options

- 4.1 The arrangements, for both plan making (planning policy) and development control purposes (determination of planning applications), to be considered are:

Joint Committees established under Section 101 Local Government Act 1972 (Cabinet and Council resolutions only):

- 1. DPD functions;
Membership: Both Borough/District Councils with collective voting
- 2. Development Control functions;
Membership: Both District/Borough Councils with collective voting
- 3. Option 2 plus County Council
Membership: All three Councils with collective voting
- 4. DPD and Development Control functions:
Membership: Both Borough/District Councils with collective voting
- 5. DPD and Development Control functions:
Membership: Both Borough/District Councils with collective voting
Essex Council advisory non-voting membership
- 6. DPD and Development Control functions:
Membership: All three Councils with collective voting (but not extensive powers of Section 29 joint committee)

Joint Committees established under Section 29 Planning and Compulsory Purchase Act 2004 (Secretary of State approval required):

- 7. DPD functions

Membership: All three Councils with collective voting

8. DPD and Development Control collective voting

Membership: All three Councils with collective voting

Status Quo:

9. Existing Committees within Tendring and Colchester Councils each retaining DPD functions, for approval by both Councils and determination of planning applications under current rules.

4.2 Due to the timetable for production of joint DPD and HIF housing delivery deadlines, it is considered that seeking Secretary of State approval for a Joint Committee with the County Council will cause unnecessary delay which may prevent the establishment of the Joint Committee prior to decisions being required.

4.3 This report recommends Option 6 as the proposed model for the establishment of the Joint Committee for TCBGC.

5. Supporting Information

5.1 Section 1 of the Local Plan adopted by Full Council on 1 February 2021 contains a specific Policy (SP 8) for the Development & Delivery of a New Garden Community in North Essex, which states:

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

The garden community will be holistically and comprehensively planned with a distinct identity that responds directly to its context and is of sufficient scale to incorporate a range of homes, employment, education & community facilities, green space and other uses to enable residents to meet the majority of their day-to-day needs, reducing the need for outward commuting. It will be comprehensively planned from the outset, with delivery phased to achieve the whole development, and will be underpinned by a comprehensive package of infrastructure.

A Development Plan Document (DPD) will be prepared for the garden community, containing policies setting out how the new community will be designed, developed and delivered in phases, in accordance with the principles in paragraphs i-xiv below. No planning consent for development forming part of the garden community will be granted until the DPD has been adopted”.

5.2 All development forming part of the garden community will comply with the principles set out in SP8.

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

“The adoption of the DPD will be contingent on the completion of a Heritage Impact Assessment carried out in accordance with Historic England guidance. The Heritage Impact Assessment will assess the impact of proposed allocations upon the historic

environment, inform the appropriate extent and capacity of the development and establish any mitigation measures necessary. The DPD will be produced in consultation with the local community and stakeholders and will include a concept plan showing the disposition and quantity of future land-uses, and give a three dimensional indication of the urban design and landscape parameters which will be incorporated into any future planning applications; together with a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure to ensure that the respective phases of the development do not come forward until the necessary infrastructure has been secured. The DPD and any application for planning permission for development forming part of the garden community must be consistent with the requirements set out in this policy.

For the Plan period up to 2033, housing delivery from the garden community, irrespective of its actual location, will be distributed equally between Colchester Borough Council and Tendring District Council. If, after taking into account its share of delivery from the garden community, either of those authorities has a shortfall in delivery against the housing requirement for its area, it will need to make up the shortfall within its own area. It may not use the other authority's share of delivery from the garden community to make up the shortfall."

The Local Plan Committee at its meeting on 10 June 2021 received an update on the TCBGC DPD.

Local Development Scheme (LDS) including TCBGC DPD

- 5.4 The Council's Local Development Scheme (LDS) was approved by the Local Plan Committee on 10 June 2021, which sets out an indicative timetable for preparing key planning documents. It is particularly useful for the public, partner organisations and third parties to understand, broadly, the programme of work and how the Council proposes to resource and manage it. The LDS covers the adoption of the new Local Plan, the Tendring Colchester Borders Garden Community Development Plan Document (DPD); the future review of the Local Plan and the production of other key planning documents. It includes the anticipated timetable of consultation periods, examinations and expected dates of adoption.
- 5.5 The LDS refers to the Tendring Colchester Borders Development Plan Document (DPD) for the TCBGC. A DPD follows the same process for preparation as a Local Plan. It builds on policy or policies in the Local Plan and provides significantly more implementation detail. Any DPD for TCBGC will require the co-operation and collaboration with Tendring District Council. This DPD in Tendring's LDS is described as a 'Strategic Growth DPD'. In Section 1 of the Adopted Local Plan, Policy SP8 states: *"The Strategic Growth DPD will set out the nature, form and boundary of the new community. The document will be produced in consultation with stakeholders and will include a concept plan showing the disposition and quantity of future land-uses, and give a three dimensional indication of the urban design and landscape parameters which will be incorporated into any future planning applications; together with a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure, to ensure that the respective phases of the development do not come forward until the necessary infrastructure has been secured. The DPD will provide the framework for the subsequent development of more detailed masterplans and other design and planning guidance for the Tendring / Colchester Borders Garden Community."*

- 5.6 The LDS sets out the following timetable for the production, consultation and approval of the TCBGC joint DPD:

Tendring Colchester Garden Community Development Plan Document Joint (DPD)	
Subject and scope	This document will contain policies and allocations to guide the new Garden Community proposed at the Tendring/Colchester border. This DPD will be produced jointly with Tendring District Council.
Geographical area	The broad location for the Garden Community is identified in the Section 1 Local Plan.
Chain of conformity	Conform with the broad allocation in the joint strategic Section 1 Local Plan with Tendring and Braintree District Councils
Document Preparation	Winter 2020/21 – Winter 2021/22
Member approval of draft DPD	Winter 2021/22
Draft DPD Consultation	Winter 2021/22
Document Preparation	Spring 2022 – Autumn 2022
Member approval of submission DPD for consultation	Autumn 2022
Submission DPD Consultation	Autumn 2022
Submission to Secretary of State	Winter 2022
Independent Examination	Winter 2022/23
Inspector's report	Spring 2023
Consultation on modifications	Summer 2023
Adoption	Summer/Autumn 2023

TCBGC Member Group:

- 5.7 Colchester, Essex and Tendring Councils (the Partner Councils) recognise their strategic executive objectives, contractual responsibilities and statutory functions covering highways, education and planning functions and the inter-relationship between these in delivering the Garden Community.
- 5.8 Essex County Council has been working with Homes England (acting on behalf of the Ministry Housing Communities and Local Government now the Department for Levelling Up, Housing and Communities) to enter into formal contract (Grant Determination Agreement (GDA)) with one another for the Housing Infrastructure Fund (HIF). Within the GDA there are a number of responsibilities on Essex County Council as the Grant Recipient which will impact upon the delivery of the programme and Essex County Council will ensure they keep the Colchester Borough Council and Tendring District Council (the LPAs) informed of progress or delays in this regard.
- 5.9 The Partner Councils have signed a Memorandum of Understanding setting out how they will work together towards their intended objective of unlocking development at Tendring Colchester Borders Garden Community (TCBGC) as well as demonstrating the LPAs agreement with the content of the Housing Delivery Statement and the Recovery and Recycling Strategy but was not intended to create any contractual arrangement between the Partner Councils.

- 5.10 The Partner Councils have established a TCBGC Member Group whose purpose is to continue the strong partnership working arrangements which existed prior to the formation of NEGC Ltd and during its trading and provide political oversight of the delivery of the Tendring Colchester Garden Community. The Group is not a formal decision-making body.
- 5.11 The Partner Councils are committed to the Garden Community Principles and will collectively work together to deliver and oversee the programme in an open and transparent manner. The Member Group will continue its role alongside any newly established Joint Committee.

HIF

- 5.12 The Tendring Colchester Borders Garden Community indicative housing trajectory, produced based on evidence to support the shared Section 1 of the Local Plans states that the first 100 homes will be delivered on site by 2024/25. At Essex County Council's Development and Regulation Committee on 1 November 2021, the planning application for the link road was approved.
- 5.13 The options for a Joint Committee have been considered by the TCBGC Member Group, which Councillor Dundas and Councillor Ellis (together with Councillor Cory as an observer) attend on behalf of Colchester Borough Council. Through assessment of the options the proposed Terms of Reference have been discussed and it is recommended that those attached as Appendix A are adopted by Colchester, Tendring and Essex Councils to formally appoint the Joint Committee to exercise these functions delegated to it.
- 5.14 Essex County Council are proposing to delegate their Local Authority Planning functions to the Joint Committee for Tendring Colchester Borders.

In exercising the above functions, the kind of matters that would fall to the joint Committee to consider, in the determination of planning applications would include:

- Housing – all tenures (market, affordable, and specialist housing for elderly persons etc)
- New schools (primary, secondary, special education needs early years and post 16)
- Community centre, community hub and library
- leisure uses, sports provision, and allotments
- Country parks, recreation and public open space
- Any waste development proposals.
- Sustainable Urban Drainage
- Town/neighbourhood centre(s) and associated shops (all shapes and sizes)
- Public realm, footpaths and dedicated cycle routes/network
- All new roads and road crossing within the Garden Community
- Any segregated/dedicated bus routes
- Commercial and employment sites, including energy for waste proposals.
- Minerals planning applications.

In addition the joint Committee would also have a role in considering:

- The heads of terms for S106 obligations relating to the mitigation measures, necessary infrastructure and affordable housing required to deliver a policy compliant development.

- Development viability, where relevant, in relation to S106 obligations.
- Stewardship model aligned to the S106 and associated permissions.
- Ongoing monitoring of the compliance of development with agreed permissions, related obligations/conditions and its implementation to an agreed standard.

- 5.15 The proposed Joint Committee will be appointed by both Cabinet and Council with regards to the executive and non-executive functions, as set out and will consist of 3 members from each Council, one of which has to be a member of each Council's respective Cabinets, appointed by the Leader. Each authority will have equal voting rights with the Chairman rotating annually.
- 5.16 It is not currently proposed that the Joint Committee will replace the TCBGC Member Group, as the role of the former will be to oversee the preparation of the statutory process for both the joint DPD production and determining subsequent planning applications within the Garden Community. The TCBGC Member Group has responsibility for the delivery of the Garden Community providing overarching strategic direction, working collaboratively across the 3 Councils and with the developers, where such involvement does not compromise the Councils', statutory decision making processes. Although is not currently being suggested that this partnership approach is formalised beyond the existing terms of reference of the TCBGC Member Group, this will be kept under review as discussions with the Developers progress. Delegation is sought for the Assistant Director Place and Client Services in consultation with the Leader and Portfolio Holder for Resources to negotiate any partnership agreement considered necessary between the Councils for the purposes of jointly exercising executive functions in regards of the TCBGC.
- 5.17 The development of the TCBGC will be underpinned by a comprehensive 'masterplanned' approach informed by technical research and evidence as well as the feedback received through stakeholder engagement. The masterplanning work already being undertaken by the authorities working with consultants Prior + Partners will inform key elements of the joint DPD that will go before the proposed joint Committee for consideration, including the overall spatial layout of the TCBGC and the policies within the joint DPD that will be used in the determination of future planning applications. In turn, there will be an expectation for applicants for planning permission to also follow a masterplanned approach both in conforming to the requirements of the joint DPD and in generating more detailed proposals and design approaches for relevant phases of the development.
- 5.18 Mersea Homes hold options over the majority of the land within the TCBGC area and they have recently announced they are working with a lead development partner, Latimer to develop the TCBGC.
- 5.19 Latimer is the development arm of Clarion Housing Group. Clarion Housing is the UK's largest housing association, owning and managing 125,000 homes. The Councils will work closely and effectively with the Developers in overseeing the planning and delivery of the TCBGC. This partnership will be governed by planning and/or delivery agreements. From a planning perspective Planning Performance (PPAs) and Memoranda of Understanding (MoUs) set out how the parties will work together to comprehensively plan the TCBGC through the strategic and development management phases.
- 5.20 Due to the Joint Committee being established the terms of reference of the Council's Local Plan Committee will need to be amended, as proposed in Appendix B. This amendment reflects that the Local Plan Committee's remit in relation to a decision on

whether to do a joint Local Plan or Supplementary Planning document and the creation of a joint committee with another authority will remain but excluding those decisions which have been delegated to the Joint Committee in relation to Tendring Colchester Borders Garden Community.

Timetable:

- 5.21 In accordance with the LDS, Member approval of the draft joint DPD is due to in Winter 2021/22, therefore any Joint Committee should be established by the end of the calendar year for 2021 to ensure the decision making is not delayed impacting upon the project delivery programme. Once the joint DPD is adopted, the Developers will apply for planning permission in accordance with the policy requirements and design standards within the joint DPD during 2023. This allows for delivery on site by 2024/25 to meet the requirements of the HIF grant.

6. Strategic Plan References

- 6.1 All themes in the Strategic Plan are relevant, in particular: Delivering homes for people who need them. 'Create new communities and adopt a new Local Plan that delivers jobs, homes and the infrastructure to meet the borough's future needs' is a priority under this theme and the Garden Community DPD is referred to.

7. Financial Implications

- 7.1 The funding of the Joint Committee will be funded via the project costs however the responsibility for the administration of the committee will sit with Tendring District Council until agreed otherwise.

8. Legal Implications

- 8.1 Every Local Planning Authority must prepare and maintain a Local Development Scheme (LDS) in accordance with Section 15 of Planning and Compulsory Purchase Act 2004 (as amended). The LDS is the Council's rolling project plan (often covering a period of three years) for producing its Local Development Documents and sets out a timetable for the delivery. The LDS must identify:
- which of their Local Development Documents are local plans or supplementary planning documents;
 - the subject matter and geographical area to which any local plan relates;
 - which local plans (if any) are to be prepared jointly with another Council and
 - the timetable for the preparation and revision of the local plans.
- 8.2 Local Planning Authorities must revise their LDS at such time as they consider appropriate and make available to the public the up-to-date text and a copy of any amendments made and published on the Council's website, together with up-to-date information showing compliance (or non-compliance) with the timetable.
- 8.3 Under Section 28 of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act"), two or more local authorities may agree to prepare one or more joint local development documents. Pursuant to Regulation 4(4A) and (4C) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the making of an agreement to prepare one or more joint development plan documents shall not be the responsibility of an executive of the authority. The decision therefore to agree to prepare a joint development plan document must therefore be made by Full Council. The Local Plan

Committee, at its meeting on 10th June 2021 approved the updated LDS for 2021-24, which made reference to the jointly prepared DPD with Tendring for the TCBGC however, a formal agreement is required under Section 28 of the 2004 Act. Due to the timescales involved this report contains a recommendation to Full Council recommending this agreement with the consent of the Chair of the Local Plan Committee.

- 8.4 Section 29 of the 2004 Act provides that if one or more local planning authorities agree with a county council to establish a joint committee for the purposes of the plan-making system, such as the production and approval of Local Development Documents, Secretary of State's approval is required. An Order under Section 29 must specify the authorities and the county council who will constitute the joint committee and may make provision as to such other matters as the Secretary of State thinks are necessary or expedient to facilitate the exercise by the joint committee of its functions. Any application to the Secretary of State for an Order under Section 29 would include proposed terms of reference and standing orders.
- 8.5 A Joint Committee established under Section 29 can only be dissolved by the Secretary of State. Due to the timetable for production of joint DPD and HIF housing delivery deadlines, it is considered that seeking Secretary of State approval for a Joint Committee under Section 29 of the 2004 Act will cause unnecessary delay which may prevent the establishment of the Joint Committee prior to decisions being required. This option has therefore been discounted although, it must be noted consequently, certain decisions will still be required by the individual Councils.
- 8.6 Alternatively, the Councils may establish a Joint Committee using Sections 101(5), 102(1)(b) and 102(2) of the 1972 Act, through resolution of Cabinet for executive and Full Council for non-executive responsibilities.
- 8.7 The DPD process and Development Control functions involve both executive and non-executive responsibilities therefore it is important to ensure the correct decision making body is delegating the right functions to any Joint Committee. Only planning functions relating to TCBGC are proposed for delegation at this time however, this can be expanded once the governance arrangements with the developer and their partners evolve.
- 8.8 Section 101(5) of the Local Government Act 1972 enables two or more local authorities to discharge any of their functions by a joint committee, where arrangements are in force for them to do so. Section 9EA of the Local Government Act 2000 enables the Secretary of State to make regulations to allow an executive of a local authority to arrange for the discharge of any executive functions. This includes arrangements with other authorities.
- 8.9 The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 (SI 2012 no. 1019) were made pursuant to Section 9EA. Regulation 4 of the 2012 Regulations provides the Leader and Cabinet with the power to make arrangements for executive functions to be discharged jointly. Part 4 of those regulations sets out the legal framework for the joint exercise of functions.
- 8.10 Regulation 11(2) will apply where at least one of the functions is one which is the responsibility of an executive and the arrangements may provide for one joint committee to discharge all of the functions which are the subject of the arrangements on behalf of those authorities.

- 8.11 Regulation 11(5) confirms that where functions are to be discharged by the joint committee relate to those of Council and its Committees the appointment of the joint committee is to be made under Section 102(1)(b) of the 1972 Act.
- 8.12 Regulation 11(7) confirms arrangements can be made for a joint committee to discharge executive and non-executive functions, the appointment of the joint committee is made under Section 102(1)(b) of the 1972 Act, with the numbers appointed and their term of office fixed by Council, with the agreement of Cabinet.
- 8.13 Officers are permitted to be given delegated powers from a Joint Committee and the scheme of delegation is referred in its Terms of Reference.
- 8.14 Regulation 12(4) requires that where the joint committee is discharging executive functions, at least one member of the authority's Cabinet must be a member of the joint committee (appointed by the Leader).
- 8.15 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) specify functions which are not to be the responsibilities of an authority's Cabinet or are to be the responsibility of such an executive only to a limited extent or only in limited circumstances.
- 8.16 Paragraphs (1) to (3) of Regulation 4 allocate responsibility for various aspects of functions relating to the formulation and preparation of plans and strategies of the descriptions specified in Schedule 3 between a Council and their Cabinet. Schedule 3 lists Development Plan Documents as defined by Section 15 of the 2004 Act. Therefore, whilst the formulation and preparation of the DPDs are executive functions and can be discharged by a joint committee, some actions relating to the DPD process are designated to Full Council and these have been reflected in the Terms of Reference as proposed in Appendix A.
- 8.17 Full Council, upon recommendation from Cabinet, can agree to the appointment of the Joint Committee for the Development Control functions and act as planning authority in that regard.
- 8.18 The proposed Terms of Reference for the Joint Committee are attached to the Report as Appendix A.
- 8.19 The Constitution will require amending to reflect the creation of the Joint Committee etc.
- 9.0 Equality, Diversity and Human Rights, Publicity and Consultation, Community Safety, Health and Safety, and Environmental and Sustainability Implications**
- 9.1 The establishment of a Joint Committee itself would not have any direct impact on these considerations however, it is important to recognise that the work of the Joint Committee will still involve public consultation, statutory and otherwise through a detailed community engagement strategy. All environmental and equality considerations are taken into account through plan making and individual decision making of the Joint Committee.
- 10.0 Risk Management**
- 10.1 Nothing other than those risks mentioned in the report.

Background Papers

None

PROPOSED TERMS OF REFERENCE FOR TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

1. Parties:

- (1) Tendring District Council ("TDC")
- (2) Colchester Borough Council ("CBC")
- (3) Essex County Council ("ECC")

2. Status:

- 2.1 This Committee is a joint committee formed by resolutions of the Cabinets and Full Councils of TDC, CBC and ECC pursuant to sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972. The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 Regs 11 (7) and 12 (4) *(These regulations determine arrangements involving joint committees and membership)*.
- 2.2 TDC and CBC have agreed pursuant to Section 28 of the Planning and Compulsory Act 2004 to prepare a joint local development document, for the purposes of these Terms of Reference to be known as TCBGC DPD, although the name of the Garden Community may change throughout the process.

3. Membership:

- 2 members appointed by TDC (1 of which must be the Chairman of the Planning Policy and Local Plan Committee) plus 1 Cabinet member appointed by the Leader
 - 2 members appointed by CBC (1 of which must be the Chairman of the Local Plan Committee) plus 1 Cabinet member appointed by the Leader
 - 3 Members appointed by ECC (1 must be a member of the Cabinet)
- 3.1 All members of the Committee shall have undertaken suitable training which shall have been approved by the parties.

4. Terms of reference:

- 4.1 The Committee's remit is to jointly discharge the functions ('the Functions') set out in Appendix 1 in relation the Tendring Colchester Borders Garden Community, the exercise of which have been delegated to the Committee by TDC, CBC and ECC, subject to the limitation in paragraphs 4.3 and 4.4.
- 4.2 The functions delegated by TDC, CBC and ECC include: -
- (a) The exercise of the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:
 - a. is in accordance with the Local Development Schemes;
 - b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;
 - c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;

- d. has regard to the adopted Section 1 of CBC & TDC's Local Plan;
- e. has regard to the resources likely to be available for implementing the proposals in the document;
- f. other such matters the Secretary of State prescribes; and
- g. complies with the Council's Statement of Community Involvement

(b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;

(c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;

(d) make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;

(e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;

(f) recommend to CBC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and

(g) the power of the TDC and CBC as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

(h) To exercise TDC, CBC and ECC's local planning authorities' powers and duties in relation to development control including for the avoidance of doubt the power to approve authorise and direct the respective Local Planning Authorities to enter into agreements regulating the development or use of land pursuant to S106 of the Town and Country Planning Act 1990 and related powers.

4.3 Note that the following are the sole responsibility of TDC and CBC's full Council's:

- a) Responsibility for giving of instructions to the Cabinet to reconsider the draft plan submitted by the Cabinet for the Council's consideration.
- b) The amendment of the draft joint development plan document submitted by the Cabinet for the full Council's consideration.
- c) The approval of the joint development plan document for the purposes of consultation submission to the Secretary of State for independent examination.
- d) The adoption of the joint development plan document.

4.4 The Committee shall discharge the functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) falling wholly or substantially within the Tendring Colchester Borders Garden Community area shown coloured purple on the plan contained at Appendix 2.

4.5 The Committee may exercise the subsidiary powers authorised pursuant to section 111, Local Government Act 1972 in connection with the discharge of the functions.

- 4.6 The Committee may exercise the powers of delegation contained in section 101(2), Local Government Act 1972 and agree a Scheme of delegation to officers.
- 4.7 TDC, CBC or ECC may request an application to be considered by the Committee in accordance with an agreed scheme.
- 4.8 All members of the Committee shall be entitled to vote on any matter to be determined by the Committee.

5. Standing Orders

- 5.1 The Committee shall be governed by the Standing Orders set out in Appendix 3.
- 5.2 The Committee shall have the power to amend the Standing Orders from time to time within the scope of these Terms of Reference following consultation with Monitoring Officers.

6. Administration

- 6.1 The Council which is the local planning authority shall receive applications relating to the functions in the usual way and shall be responsible for all administrative stages leading to and flowing from the exercise of the functions.
- 6.2 The administration of the Committee will be undertaken by TDC who shall be responsible for all matters connected with the administration of the Committee, including the preparation and dispatch of agendas and securing premises at which the Committee may meet.

Functions delegated by Tendring District Council,
Colchester Borough Council and Essex County Council to the Joint Committee
in relation to Tendring Colchester Borders Garden Community.

1. The functions delegated by TDC and CBC: -
 - (a) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:
 - a. is in accordance with the Local Development Schemes;
 - b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;
 - c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
 - d. has regard to the adopted Section 1 of CBC & TDC's Local Plan;
 - e. has regard to the resources likely to be available for implementing the proposals in the document;
 - f. other such matters the Secretary of State prescribes; and
 - g. complies with the Council's Statement of Community Involvement
 - (b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
 - (c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;
 - (d) make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
 - (e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;
 - (f) recommend to CBC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and
 - (g) the power of the TDC and CBC as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
2. The functions delegated by TDC, CBC and ECC: -
 - (a) To exercise TDC, CBC and ECC's local planning authorities' powers and duties in relation to development control including for the avoidance of doubt the power to approve authorise and direct the respective Local Planning Authorities to enter into agreements regulating the development or use of land pursuant to S106 of the Town and Country Planning Act 1990 and related powers within the Tendring Colchester Borders Garden Community area shown coloured purple on the plan contained at Appendix 2.

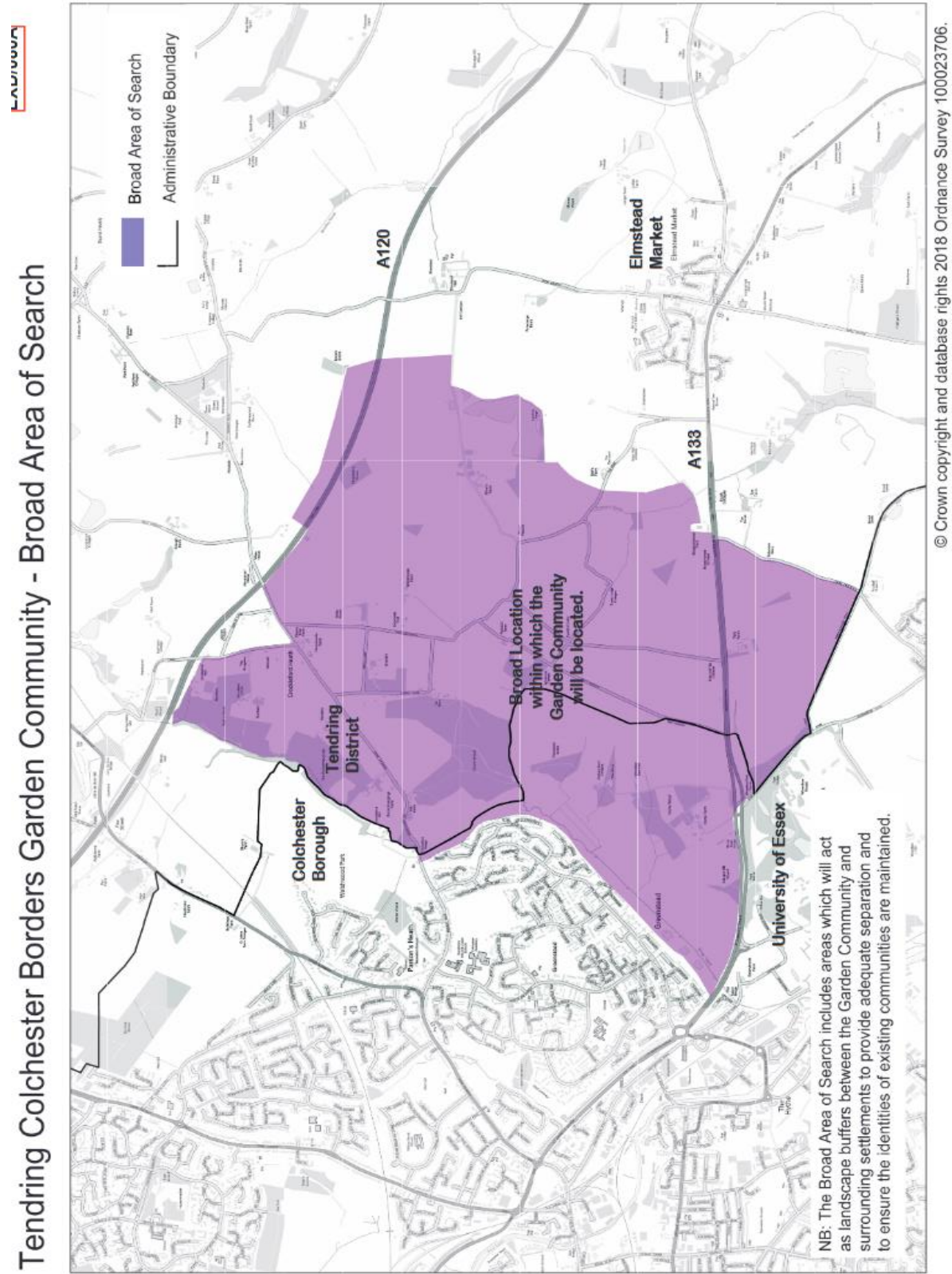
3. In exercising the functions contained in paragraph 2(a), the kind of matters that would fall to the Joint Committee to consider, in the determination of planning applications would include:

- Housing – all tenures (market, affordable, and specialist housing for elderly persons etc)
- New schools (primary, secondary, special education needs early years and post 16)
- Community centre, community hub and library
- leisure uses, sports provision, and allotments
- Country parks, recreation and public open space
- Any waste development proposals.
- Sustainable Urban Drainage
- Town/neighbourhood centre(s) and associated shops (all shapes and sizes)
- Public realm, footpaths and dedicated cycle routes/network
- All new roads and road crossing within the Garden Community
- Any segregated/dedicated bus routes
- Commercial and employment sites, including energy for waste proposals.
- Minerals planning applications.

4. In addition, the Joint Committee would also have a role in considering:

- The heads of terms for S106 obligations relating to the mitigation measures, necessary infrastructure and affordable housing required to deliver a policy compliant development.
- Development viability, where relevant, in relation to S106 obligations.
- Stewardship model aligned to the S106 and associated permissions.
- Ongoing monitoring of the compliance of development with agreed permissions, related obligations/conditions and its implementation to an agreed standard.

Plan showing Tendring Colchester Borders Garden Community



**Standing Orders for Tendring Colchester Borders Garden Community
Joint Committee**
1. Appointment of Chair and Deputy Chair

- 1.1 The Committee shall, at its first meeting in each municipal year, and from time to time as it considers necessary, elect a Chair and Deputy Chair. The Chair and Deputy Chair shall rotate between the Council's.
- 1.2 In the absence from any meeting of the Chair and Deputy Chair, a Chair for that meeting shall be appointed by the meeting but shall relinquish the chair if the Chair or Deputy Chair subsequently arrives at the meeting.

2. Appointment of Spokespersons

- 2.1 Each of the Councils shall nominate one of the committee members which it appoints as its spokesperson.

3. Notice of and Summons to Meetings

- 3.1 The administration of the Committee shall be undertaken by Tendring District Council who will give notice to the public of the time and place of any meeting in accordance with the access to information rules applicable to local authorities. At least five clear days before a meeting, the Committee Service will send an agenda by post and/or electronically to every member of the Committee. The agenda will give the date, time and location of each meeting and specify the business to be transacted and will be accompanied by such details as are available.
- 3.2 The Committee Service will take reasonable steps to ensure that a copy of the agenda and accompanying papers are placed on deposit at the offices of each of the councils for public inspection at least five clear days before the meeting and are published on the Council's web sites. The Committee Service will ensure that arrangements are put in place for the inspection of background papers in accordance with section 100D, Local Government Act, 1972 and to ensure compliance with all other provisions of Part VA, of that Act.
- 3.3 Dates, times and venues for meetings shall be determined by the Committee. In the absence of agreement or in cases of urgency, meetings may be called by the Committee Service following consultation with the Chair and Deputy Chair.
- 3.4 If at any time Tendring District Council was unable to fulfil its role in providing the administration for the Committee, Colchester Borough Council or Essex County Council will perform the function.

4. Membership

- 4.1 Committee members shall be appointed by the Councils from time to time in accordance with the Committee's terms of reference. A Council may at any time replace one or more of its nominated members by notice given to the Committee Service.

5. Substitute Members

- 5.1 Each Council will appoint one substitute member. Each Council will notify the Committee Service of substitute members appointed.
- 5.2 Substitute members will have all the powers and duties of an ordinary member of the Committee. For the purposes of briefing meetings and circulation of papers, substitute members shall be treated in the same manner as ordinary members.
- 5.3 Substitute members may attend meetings in the capacity of an ordinary member of the Committee. The substitute member should withdraw from participation as a member of the Committee in the business at that meeting during any period at which the ordinary member is in attendance.

6. Quorum

- 6.1 The quorum of a meeting of the Committee shall be as follows: -

2 Members from Tendring District Council
2 Members from Colchester Borough Council
2 Members from Essex County Council

7. Public speaking rights

- 7.1 Members of the public have the public speaking rights set out in Annex A.
- 7.2 The Committee shall have the power to amend the public speaking rights.

8. Voting

- 8.1 All members of the Committee shall be entitled to vote upon any decision due to be made by the Committee.
- 8.2 Every question shall be decided by a show of hands, subject to Rule 8.3.
- 8.3 If any member demands a named vote and is supported by two other members, the question shall be determined by a named vote and the Committee Service shall record and enter in the minutes the names of each member present and whether they voted for or against or abstained.
- 8.4 Any member may, immediately after any vote is taken, require a record to be made in the minutes of whether they voted for or against or abstained.
- 8.5 If there are equal numbers of votes for and against, the Chair will have a second and casting vote.

9.0 Tenure of office

- 9.1 A member shall cease to be a member of the Committee if the person—
 - (a) resigns in accordance with paragraph 9.3;
 - (b) is removed or replaced by the Council which made the appointment; or

(c) ceases to be a member of a constituent Council (and does not on the same day again become a member of that or any other Council).

- 9.2 A person who ceases to be a member of the Committee shall be eligible for reappointment.
- 9.3 A member may resign from the Committee by sending written notice delivered to the proper officer of the Council which appointed the member;
- 9.4 Any casual vacancy shall be filled as soon as practicable by the body which appointed the member of the Committee whose membership has ceased.

10. Minutes

- 10.1 The Chair will sign the minutes of the Committee at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record.

11. Exclusion of Public

- 11.1 Members of the public and press may only be excluded either in accordance with the Access to Information provisions of the Local Government Act 1972 (consideration of 'exempt information') or Rule 13 (Disturbance by Public).

12. Disorderly Conduct: Misconduct of a Member

- 12.1 If at any meeting of the Committee any member, in the opinion of the Chair, misconducts themselves by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Committee, the Chair or any other member may move "That the member named be not further heard", and the motion if seconded shall be put and determined without discussion.
- 12.2 If the member named continues their misconduct after a motion under the foregoing Rule has been carried, the Chair shall either move "that the member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting of the Committee for such period as in their discretion shall consider expedient.
- 12.3 In the event of a general disturbance which in the opinion of the Chair renders the due and orderly despatch of business impossible, the Chair, in addition to any other power vested in him/her, may adjourn the meeting of the Committee for such period as in their discretion shall consider expedient.

13. Disorderly Conduct: Disturbance by members of the public

- 13.1 If a member of the public interrupts the proceedings at any meeting the Chair shall warn them. If a member of the public continues the interruption the Chair shall order their removal from the meeting.
- 13.2 In case of a general disturbance in any part of the room open to the public the Chair shall order that part to be cleared.

14. Suspension of Standing Orders

- 14.1 Any of these Standing Orders may, so far as is lawful, be suspended by motion passed unanimously by those entitled to vote on the application in question. Any motion to suspend any part of these rules shall specify the purpose of their suspension. Any suspension shall only be to the extent and for the length of time necessary to achieve the stated purpose.

15. Attendance at the Committee by other members of the Councils

- 15.1 A member of any of the Councils who is not a member of the Committee may speak at a meeting of the Committee at the request or with the permission of the Committee or of its Chair made or obtained before the meeting. Such request or permission shall specify the matters in respect of which the member shall be permitted to speak.

16. Attendance at the committee by Council Officers

- 16.1 The relevant officers from the Councils will attend the Committee meetings to present the reports and advise the Committee in relation its decision making.

17. Statements of Community Involvement

- 17.1 Public consultation in relation to pre application matters shall be dealt with in accordance with the Statement of Community Involvement or other appropriate procedures of the Council responsible for issuing the consent.

<p style="text-align: center;">Tendring Colchester Borders Garden Community Joint Committee</p>
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PART A

Public Speaking Arrangements- General

1. Members of the public, who want to speak about an item which is to be considered at a meeting of the Committee can do so if they have notified the Committee Service by 12.00 noon on the day before the meeting.

At the Committee Meeting

2. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.
3. Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.
4. The Chair will ask the speaker to come to the table at the beginning of the discussion of the report of the relevant item. The Chair will then invite them to speak following the Officer's introduction to the report on the item.
5. The speaker should address the Chair of the Committee, which is the normal convention for Committees.
6. Speakers should remember to:
 - Keep to 3 minutes or whatever other period has been agreed.
 - Highlight the main points they wish to raise and be as brief and concise as possible.
 - Be courteous.

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

Tendring Colchester Borders Garden Community Joint Committee

PART B**Public Speaking Arrangements- Planning Applications**

1. Members of the public, or applicants or their agents, who want to speak about an application which is to be considered at a meeting of the Committee can do so if they have:
 - (a) in the case of members of the public, already submitted a written representation on an application; and
 - (b) notified the Committee Service by 12.00 noon on the day before the meeting.
2. A member of the public who has made a written representation on a planning application which is to be determined by the Committee, will be notified in writing about the committee date and their public speaking rights in the week before the Committee meeting.

At the Committee Meeting

3. A list of public speakers is available at the meeting. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.
4. Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.
5. If more than one person wants to make a representation about the same application, then they should choose someone to act as a spokesperson. When several people wish to speak on the same application but wish to raise different issues, the Chair may agree to those speakers making representations. In these circumstances, less time may need to be given to each speaker.
6. The Chair will ask the speaker to come to the table at the beginning of the discussion of the report on the relevant application. The Chair will then invite them to speak following the Officer's introduction to the report on the application.
7. The speaker should address the Chair of the Committee, which is the normal convention for Committees.
8. Speakers should remember to:
 - Keep to 3 minutes or whatever other period has been agreed.
 - Keep to the planning issues raised by the application.
 - Highlight the main points they wish to raise and be as brief and concise as possible.
 - Be courteous.

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

Proposed changes to the Terms of Reference of the Local Plan Committee

1. Authority to determine on behalf of the Council:
 - (a) preparation of or a revision of a Local Plan
 - (b) preparation of or a revision of a local development document
 - (c) submission of a Local Plan or local development document
 - (d) decision on whether to do a joint Local Plan or Supplementary Planning document and the creation of a joint committee with another authority **(with the exception of those decisions delegated by Council to the Tendring Colchester Borders Joint Committee)**
 - (e) preparation and adoption of Supplementary Planning Documents
 - (f) bring Local Development Scheme into effect
 - (g) preparation of monitoring report
 - (h) approval of Neighbourhood Area
 - (i) approval of Neighbourhood Forum
 - (j) withdraw Neighbourhood Forum status
 - (k) approval of Community Right to Build organisation
 - (l) making of Neighbourhood Plans
 - (m) making of Neighbourhood Development Orders
 - (n) revocation or modification of Neighbourhood Development Orders and Neighbourhood Plans
 - (o) adoption of other non statutory planning documents including the Local List.
2. To make recommendations to the Council on:
 - (a) the adoption of the Local Plan
 - (b) the withdrawal/revocation of the Local Plan
 - (c) the adoption of other local development documents