

# Tendring District Council



IAN DAVIDSON, CHIEF EXECUTIVE, TOWN HALL, STATION ROAD, CLACTON-ON-SEA, ESSEX, CO15 1SE. TELEPHONE (01255) 686868

## COUNCIL

<b>DATE:</b>	<b>Thursday, 2 March 2023</b>
<b>TIME:</b>	<b>7.30 pm</b>
<b>VENUE:</b>	<b>Princes Theatre - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE</b>

# AGENDA

### MEMBERSHIP:

<b>Councillor Harris (Chairman)</b>	<b>Councillor J Henderson</b>
<b>Councillor V Guglielmi (Vice-Chairman)</b>	<b>Councillor P Honeywood</b>
<b>Councillor Alexander</b>	<b>Councillor S Honeywood</b>
<b>Councillor Allen</b>	<b>Councillor King</b>
<b>Councillor Amos</b>	<b>Councillor Knowles</b>
<b>Councillor Baker</b>	<b>Councillor Land</b>
<b>Councillor Barry</b>	<b>Councillor McWilliams</b>
<b>Councillor Bray</b>	<b>Councillor Miles</b>
<b>Councillor Bush</b>	<b>Councillor Morrison</b>
<b>Councillor Calver</b>	<b>Councillor Nash</b>
<b>Councillor Casey</b>	<b>Councillor Newton</b>
<b>Councillor Cawthron</b>	<b>Councillor Placey</b>
<b>Councillor Chapman BEM</b>	<b>Councillor Porter</b>
<b>Councillor Chittock</b>	<b>Councillor Scott</b>
<b>Councillor Clifton</b>	<b>Councillor Skeels</b>
<b>Councillor Codling</b>	<b>Councillor Steady</b>
<b>Councillor Coley</b>	<b>Councillor G Stephenson</b>
<b>Councillor Davidson</b>	<b>Councillor M Stephenson</b>
<b>Councillor Davis</b>	<b>Councillor Stock OBE</b>
<b>Councillor Fairley</b>	<b>Councillor Talbot</b>
<b>Councillor Fowler</b>	<b>Councillor Turner</b>
<b>Councillor Griffiths</b>	<b>Councillor White</b>
<b>Councillor C Guglielmi</b>	<b>Councillor Wiggins</b>
<b>Councillor I Henderson</b>	<b>Councillor Winfield</b>

**Most Council meetings are open to the public and press. The space for the public and press will be made available on a first come first served basis. Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting. Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.**

**This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to 24 months (the Council retains one full year of recordings and the relevant proportion of the current Municipal Year). The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in, the meeting. In addition, the Council is obliged by law to allow members of the public to take photographs, film, audio record and report on the proceedings at public meetings. The Council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.**

**If you have any queries regarding webcasting or the recording of meetings by the public, please contact Ian Ford Email: [iford@tendringdc.gov.uk](mailto:iford@tendringdc.gov.uk) or Telephone on 01255 686584.**

DATE OF PUBLICATION: Thursday, 2 March 2023

## AGENDA

**13 Reference from the Tendring Colchester Borders Garden Community Joint Committee - A.1 - Development Plan Document: Submission Version Plan - Regulation 19 (Pages 1 - 10)**

To inform Council:-

- (a) of the formal recommendations made by the Tendring Colchester Borders Garden Community Joint Committee at its meeting held on 27 February 2023 in relation to the Submission Version of the Development Plan Document, associated Sustainability Appraisal and other related evidence; and
- (b) that a Memorandum of Understanding has been signed by Essex County Council, Colchester City Council, Tendring District Council and Latimer (Tendring Colchester Borders Garden Community) Development Limited in order to govern the relationship, collaboration and co-operation of the aforementioned Parties in relation to the delivery of the A120-A133 Link Road to support the development of the Tendring Colchester Borders Garden Community.

**Date of the Next Scheduled Meeting**

*The next scheduled meeting of the Council is to be held in the Princes Theatre - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 7.30 pm on Tuesday, 28 March 2023.*

## **Information for Visitors**

**FIRE EVACUATION PROCEDURE**

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

Your calmness and assistance is greatly appreciated.

## COUNCIL

2 MARCH 2023

### ADDENDUM TO THE REFERENCE FROM THE TENDRING & COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

#### A.1 DEVELOPMENT PLAN DOCUMENT: SUBMISSION VERSION PLAN – REGULATION 19

(Report prepared by Ian Ford and Lisa Hastings)

#### PURPOSE OF THE REPORT

To inform Council:-

- (a) of the formal recommendations made by the Tendring Colchester Borders Garden Community Joint Committee at its meeting held on 27 February 2023 in relation to the Submission Version of the Development Plan Document, associated Sustainability Appraisal and other related evidence; and
- (b) that a Memorandum of Understanding has been signed by Essex County Council, Colchester City Council, Tendring District Council and Latimer (Tendring Colchester Borders Garden Community) Development Limited in order to govern the relationship, collaboration and co-operation of the aforementioned Parties in relation to the delivery of the A120-A133 Link Road to support the development of the Tendring Colchester Borders Garden Community.

#### EXECUTIVE SUMMARY

The Tendring & Colchester Borders Garden Community Joint Committee (“the Joint Committee”), met on 27 February 2023, and considered a comprehensive report (and appendices) which sought the Joint Committee’s recommendations to both Tendring District Council and Colchester City Council in relation to the Submission Version of the Development Plan Document (DPD) for the Garden Community.

The Joint Committee's decision on this matter was:-

*“That the Tendring Colchester Borders Garden Community Joint Committee –*

- 1) notes the content of this report which presents the Submission Version of the Plan for the Tendring Colchester Borders Garden Community (otherwise known as the ‘Development Plan Document’ or DPD) (Appendix 1) and associated Sustainability Appraisal (Appendix 2) along with the Strategic Masterplan and other related evidence listed as background documents which together address the legal requirements of the planning system and the tests of soundness set out in the National Planning Policy Framework, having regard to the comments received in response to the 2022 Regulation 18 public consultation exercise;*
- 2) recommends to the Full Council of both Tendring District Council and Colchester City Council that they agree for the above-mentioned Submission Version of the Plan, associated Sustainability Appraisal and other related evidence be published for six-weeks’ public consultation in line with Regulation 19 of the Town and Country Planning (Local Planning) (England) regulations 2012 (as amended) and Regulation*

13 of the Environmental Assessment of Plans and Programme Regulations and thereafter submitted to the Secretary of State in line with Regulation 21 of the Town and Country Planning (Local Planning) (England) regulations 2012 to begin the process of independent examination;

- 3) that Full Council authority is sought for the Garden Community Planning Manager, in consultation with the TDC Director of Planning, the CCC Executive Director of Place and the Chairman and Vice-Chairman of the Tendring Colchester Borders Garden Community Joint Committee, to be given delegated authority to make any minor editorial changes to the text and maps in the Submission Version of the DPD and to make necessary updates and additions to the evidence base ahead of their publication for public consultation;
- 4) notes the proposed activity for the Regulation 19 'Submission Version Plan' consultation;
- 5) notes the representations received following the cancellation of the Joint Committee meeting of the 13<sup>th</sup> December 2022;
- 6) welcomes the completion of a Memorandum of Understanding which is intended to govern the relationship, collaboration and co-operation between the Councils and Latimer in relation to the delivery of both phases, at the earliest opportunity, of the A120-A133 Link Road which will support the development of the Garden Community; and
- 7) recommends that officers from the Councils work with Latimer to explore the possibility of entering into an agreement which would detail how the parties would work collaboratively for the duration of the project, delivering the vision for the future of the garden community."

In addition, on 24 February 2023, a Memorandum of Understanding was signed by Essex County Council, Colchester City Council, Tendring District Council and Latimer (Tendring Colchester Borders Garden Community) Development Limited in order to govern the relationship, collaboration and co-operation of the aforementioned Parties in relation to the delivery of the A120-A133 Link Road to support the development of the Tendring Colchester Borders Garden Community.

#### **FURTHER ADVICE OF TENDRING DISTRICT COUNCIL'S MONITORING OFFICER**

Entering into any agreement with Latimer and the Councils is an executive function and therefore Full Council can endorse this recommendation to be taken forward.

#### **RECOMMENDATIONS**

**That Full Council, having taken into account the information contained in this Addendum (and its Appendix) in making its decision on the Submission Version of the Development Plan Document, associated Sustainability Appraisal and other related evidence, in particular the decision made by the Tendring & Colchester Borders Garden Community Joint Committee, resolves that –**

- (a) the Submission Version of the Plan for the Tendring Colchester Borders Garden Community (otherwise known as the 'Development Plan Document' or DPD) (Appendix 1) and associated Sustainability Appraisal (Appendix 2) along with**

the Strategic Masterplan and other related evidence listed as background documents which together address the legal requirements of the planning system and the tests of soundness set out in the National Planning Policy Framework, having regard to the comments received in response to the 2022 Regulation 18 public consultation exercise, be published for six weeks' public consultation in line with Regulation 19 of the Town and Country Planning (Local Planning) (England) regulations 2012 (as amended) and Regulation 13 of the Environmental Assessment of Plans and Programme Regulations and thereafter submitted to the Secretary of State in line with Regulation 21 of the Town and Country Planning (Local Planning) (England) regulations 2012 to begin the process of independent examination;

- (b) the Garden Community Planning Manager, in consultation with Tendring District Council's Director of Planning, Colchester City Council's Executive Director of Place and the Chairman and the Vice-Chairman of the Tendring Colchester Borders Garden Community Joint Committee, be authorised to make any minor editorial changes to the text and maps in the Submission Version of the DPD and to make necessary updates and additions to the evidence base ahead of their publication for public consultation;
- (c) welcomes the completion of a Memorandum of Understanding which is intended to govern the relationship, collaboration and co-operation between the Councils and Latimer in relation to the delivery of both phases, at the earliest opportunity, of the A120-A133 Link Road which will support the development of the Garden Community; and
- (d) endorses the recommendation that Officers from the Councils work with Latimer to explore the possibility of entering into an agreement which would detail how the parties would work collaboratively for the duration of the project, delivering the vision for the future of the garden community.

#### **CURRENT POSITION**

Council is requested to take account of the recommendations submitted to it by the Joint Committee, together with the Memorandum of Understanding in relation to the A120-A133 Link Road.

A copy of that Memorandum of Understanding is attached as an Appendix to this Addendum.

#### **APPENDIX**

**Appendix** - Memorandum of Understanding has been signed by Essex County Council, Colchester City Council, Tendring District Council and Latimer (Tendring Colchester Borders Garden Community) Development Limited in order to govern the relationship, collaboration and co-operation of the aforementioned Parties in relation to the delivery of the A120-A133 Link Road to support the development of the Tendring Colchester Borders Garden Community

This page is intentionally left blank



## A120-A133 Link Road Memorandum of Understanding – February 2023

This memorandum of understanding is dated on 24<sup>th</sup> February 2023

### **Between:**

- (1) **ESSEX COUNTY COUNCIL**, of County Hall, Market Road, Chelmsford CM1 1QH (as **Essex County Council**);
  - (2) **COLCHESTER CITY COUNCIL**, of Town Hall, Colchester CO1 1FR (as **Colchester City Council**);
  - (3) **TENDRING DISTRICT COUNCIL**, of Town Hall, Station Rd, Clacton-on-Sea CO15 1SE (as **Tendring District Council**); and
  - (4) **LATIMER (Tendring Colchester Borders Garden Community) Development Limited**, of Level 6, 6 More London Place, London, SE1 2DA (as **Latimer**);
- (together, the **Parties**)

### **BACKGROUND**

- A. The Parties enter into this Memorandum of Understanding (the MOU) to govern the relationship, collaboration and co-operation of the Parties in relation to the delivery of the A120-A133 Link Road (the Link Road) to support the development of the Tendring Colchester Borders Garden Community (TCBGC) (the Purpose).
- B. The Housing Infrastructure Fund (HIF) is a HM Government capital grant programme administered by the Department for Levelling Up, Housing and Communities (DLUHC) through its executive agency, Homes England. The aim of HIF is to deliver up to 100,000 new homes in England in the coming decades by funding the provision of new infrastructure to unlock residential development land.
- C. Essex County Council, working with Colchester City Council and Tendring District Council (the Councils), was successful in securing £99.9m of HIF money to deliver the A120-A133 Link Road and Rapid Transit System (the RTS). Together this infrastructure will unlock circa 7,500 homes at TCBGC.
- D. Essex County Council has entered into a funding agreement (the Grant Determination Agreement (GDA)) with Homes England on 19 November 2020. The GDA sets out the terms of the funding and the delivery conditions incumbent on Essex County Council as the grant recipient.
- E. The GDA creates obligations on Essex County Council in respect of facilitating housing delivery and the recovery and recycling of HIF money. These obligations are set out in the Housing Delivery Statement and Recovery and Recycling Strategy, respectively. Both documents are annexed to the GDA and as such form part of the funding agreement.
- F. In relation to the Recovery and Recycling Strategy, Essex County Council is obligated to use all reasonable endeavours to recover the HIF money from development at TCBGC through planning contributions. That recovered money would then be 'recycled' to invest in infrastructure to enable additional housing growth projects to be brought forward.

- G. Essex County Council has been working with Colchester City Council and Tendring District Council as local planning authorities in the planning of TCBGC in conjunction with the planning of the Link Road and the RTS. Reflecting this close working relationship, the Councils have established a Joint Committee as the decision-making body for the Development Plan Document (which also needs to be approved by Full Council at Colchester City Council and Tendring District Council at the Regulation 19 stage) and subsequent planning applications for development at TCBGC. The Councils have also been working in collaboration with Latimer as the strategic developer of TCBGC.
- H. Since entering the GDA and securing the HIF money, design changes in response to public consultation on the planning application, high inflation and general rising costs for the Link Road have led to increases beyond original estimates and significant delays incurred to the original timetable. These cost increases and programme delays have created a gap in the funding available to deliver the Link Road. As the Link Road is required to unlock the 7,500 homes at TCBGC, this gap in funding will need to be met through other avenues including developer contributions provided through the development of TCBGC.
- I. In order to resolve this funding shortfall issue, Essex County Council has agreed in principle with Homes England to changes to the GDA which, subject to formal contract variation, sets out a phased delivery approach to the Link Road. Phase 1 will be the construction of the A133 roundabout plus a partial Link Road with multiple access arrangements to the Garden Community, terminating at a roundabout south of Allen's Farm. Phase 2 will be a new junction on the A120 and completion of the Link Road. This phased delivery approach involves the use of the secured HIF money to deliver the first phase of the Link Road, and the Rapid Transit Scheme, with the second phase being funded through developer contributions from the development of TCBGC (or external funding sources that may become available), with continued involvement from the Councils to support the delivery of the full Link Road.
- J. The result of these changes to the funding of the second phase of the Link Road being captured from the development, will be to reduce the funding available to be recovered and recycled to invest in infrastructure to enable additional housing growth projects to be brought forward as per Essex County Council's obligations in the original Grant Determination Agreement.
- K. Essex County Council will, to the extent available and to the extent that they are able to, use any remaining HIF money not required for Phase 1 of the Link Road and the RTS to de-risk the second phase of the Link Road as far as possible, including by assembling the land required for the infrastructure ahead of its full delivery.

#### **MOU PURPOSE**

- 1.1 The Parties will work collaboratively and in good faith to achieve the Purpose.
- 1.2 The Parties agree that the delivery of the Link Road is essential to the delivery of TCBGC and without its delivery the TCBGC as contained within the Colchester and Tendring shared Section 1 Local Plans, will not be capable of being developed in its entirety.
- 1.3 The Parties acknowledge that the Colchester and Tendring shared Section 1 Local Plan requires funding of the Link Road to be secured prior to the approval of planning applications related to TCBGC and will work together to agree planning contributions that

satisfy that requirement. In this context, the Parties agree that the adopted Local Plan policy requires a legally binding agreement (s.106 or other suitable legal agreement) to be in place in respect of the funding of the entire Link Road ahead of the approval of planning applications for development at TCBGC.

- 1.4 Under this MOU, Latimer as master developer of TCBGC, confirms its commitment to fund the delivery of the second phase of the Link Road as soon as is practically and financially possible to do so in accordance with the emerging Development Plan Document and the general 'infrastructure first' ethos and garden community principles that TCBGC is being planned upon. The Parties agree to work together to identify future funding opportunities which will enable Latimer to accelerate the delivery of the second phase of the Link Road. The precise timescales and trigger points for funding will be established within agreed heads of terms for the s.106 Agreement (and/or other related legal agreements) associated with the TCBGC prior to the granting of planning permission and presented to the Joint Committee for approval and agreement alongside the TCBGC planning application.
- 1.5 The Parties acknowledge that future planning applications will be accompanied by detailed assessments of all transport impacts and will require an appropriate package of associated mitigation measures. In addition to the full Link Road, transport and movement mitigation measures, including measures to secure modal shift, will be assessed against such material, and the policy requirements set within the future adopted Development Plan Document and its supporting evidence base, as well as the wider Development Plan.
- 1.6 The Parties acknowledge that the funding of the infrastructure requirements in the TCB development plan evidence base, including phase 2 of the Link Road, from the development of TCBGC will only be possible if the overall delivery of TCBGC is financially viable. The financial viability of TCBGC will be judged through a comprehensive consideration of total scheme costs including planning contributions towards other planning policy requirements. Consideration of the costs of delivering the infrastructure set out in the DPD evidence, including the costs of second phase of the Link Road, will be assessed as part of ongoing viability reviews to ensure that the scheme remains viable and any additional funding can be recovered and recycled into additional infrastructure as per Essex County Council's obligations in the Grant Determination Agreement.
- 1.7 The Parties express their preference to fund the second phase of the Link Road through external grant funding opportunities if available and the Parties commit to work together to explore any such opportunities as they arise.
- 1.8 The Councils where necessary, will seek to:
  - 1.8.1 secure additional public sector funding towards the second phase of the Link Road where such opportunities arise;
  - 1.8.2 use available compulsory purchase powers and other such powers should they be necessary to allow for delivery of the second phase of the Link Road; on the basis of any administrative costs incurred in exercising these powers being recovered; and

1.8.3 consider potential investment finance opportunities should they provide a more beneficial mechanism to raise the additional funding with appropriate financial risk mitigation.

1.9 In working towards the achievement of the Purpose, the Parties agree to sharing information relevant to the planning, funding and delivery of the Link Road in a prompt and open manner where it is reasonable to do so subject to the necessary protocols related to the planning process.

**NO CONTRACT**

1.10 No decision, opinion, or discussion held pursuant to this MOU will bind the Parties in any way or with regard to any other contractual arrangements that exist between the Parties. Nothing in this MOU, or in any other document referred to in it shall be legally binding, create any kind of legitimate expectation or place a fetter on the exercise of any statutory function by any entity with statutory powers.

**SIGNED ON BEHALF OF:**

**Essex County Council:**

**Steve Evison (Director for Sustainable Growth, Essex County Council)**



**Date: 24 February 2023**

**Colchester City Council:**

**Lindsay Barker (Executive Director for Place, Colchester City Council)**



**Date: 24 February 2023**

**Tendring District Council:**

**Gary Guiver (Director of Planning, Tendring District Council)**



**Date: 24 February 2023**

**AND**

**LATIMER (Tendring Colchester Borders Garden Community) Development Limited:**

**Richard Cook (Group Director of Development, Clarion Housing Group)**



**Date: 24<sup>th</sup> February 2023**

This page is intentionally left blank