

# Public Document Pack

Planning Policy and Local Plan Committee

16 July 2019

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**MINUTES OF THE MEETING OF THE PLANNING POLICY AND LOCAL PLAN COMMITTEE,  
HELD ON TUESDAY, 16TH JULY, 2019 AT 6.00 PM  
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,  
CO16 9AJ**

<b>Present:</b>	Councillors Turner (Chairman), Fairley (Vice-Chairman), Allen, Bush, Chapman, Coley, Newton, Scott and Skeels
<b>Also Present:</b>	Councillor Lynda McWilliams
<b>In Attendance:</b>	Ian Davidson (Chief Executive), Ewan Green (Corporate Director (Planning and Regeneration)), Cath Bicknell (Head of Planning), Lisa Hastings (Head of Governance and Legal Services & Monitoring Officer), Keith Simmons (Head of Democratic Services and Elections), Gary Guiver (Planning Manager), Will Fuller (Planning Officer) and Paul Woods (Development Technician)

**1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Councillors Broderick (with no substitute) and G V Guglielmi (with Councillor Coley substituting).

**2. MINUTES OF THE LAST MEETING**

It was **RESOLVED** that the minutes of the last meeting of the Committee, held on 29 January 2019, be approved as a correct record and signed by the Chairman.

**3. DECLARATIONS OF INTEREST**

There were none on this occasion.

**4. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37**

There were none on this occasion.

**5. PUBLIC SPEAKING**

The Chairman invited the following persons to address the Committee:

Bill Marshall, a resident of the District, made a statement relating to item A.1 of the report of the Corporate Director (Planning and Regeneration) in which he urged Councillors not to approve the recommendations in that report. He referenced the publication of the report and appendices on 25 July and considered that there was too much information to digest in too short a period. He invited Members to delay, defer and reconsider the detail in the report. He expressed the view that residents had been excluded from the proposals and those residents did not want the proposed Garden Communities. He drew attention to the £2 billion borrowing and that this would, in his view, burden local residents for generations. As an alternative, Members were advised that he had submitted a proposal which he referenced as being DRPP, which had then

been identified as Alternative 7 and E4 in the Assessment. He also drew attention to a model he had displayed at the meeting of a rapid transport floating train.

Ted Gittens, a resident of the District, made a statement relating to item A.1 of the report of the Corporate Director (Planning and Regeneration) in which he considered that the Local Plan process was at a crucial point and he referenced the words of the Local Plan Inspector on the issue of promoting all three Garden Communities across North Essex at the same time and the difficulties with justification for this simultaneous development the Inspector had outlined. He considered the west-Tendring Garden Community was little more than a Colchester overspill with transport links westward rather than into the rest of Tendring. Instead he spoke in support of development in the area where the A120 and A133 diverge of which he described as Tendring central and linked it to the Metro Plan proposal referenced in the report. This he considered would redistribute development eastward and be more sustainable for the District.

Carol Bannister, a resident of the District, made statements relating to items A.1, A.2 and A.3 of the Report of the Corporate Director (Planning and Regeneration) in which she outlined that she supported Garden Communities, although not on the scale proposed. She described the District of Tendring as being a rural, tourist and retirement area and she spoke strongly about the need to retain this character. She did not believe organisations such as CAUSE represented the views of local people in Tendring. She was of the view that the Metro Plan proposal referenced in the report would destroy the villages identified in that proposal due to the huge growth the proposal envisaged. In respect of the report at A2, she advised the Committee that she considered the housing supply proposals should be accepted. She also spoke on the report at A3, and referenced her support for measures to protect local habitats and, in this regard, quoted Weeley Wood.

The Chairman, on behalf of the Committee, thanked the above persons for their input, views and considerations.

**6. REPORT OF THE CORPORATE DIRECTOR (PLANNING AND REGENERATION) - A.1 - SECTION 1 LOCAL PLAN EXAMINATION: ADDITIONAL SUSTAINABILITY APPRAISAL, EVIDENCE AND PROPOSED AMENDMENTS**

The Committee had before it a comprehensive report (and appendices) of the Corporate Director (Planning and Regeneration) (A.1) which sought:-

- a) the Committee's recommendation to Full Council that the Additional Sustainability Appraisal be approved and to inform the Committee of the findings of the additional evidence base having been prepared in response to the Planning Inspector's concerns about the new Garden Communities proposed as part of the Section 1 Local Plan for North Essex;
- b) the Committee's recommendation to Full Council that a series of proposed amendments to the Local Plan be submitted to the Inspector for consideration as minor and major modifications; and
- c) the Committee's recommendation to Full Council that a six weeks public consultation be undertaken on the Additional Sustainability Appraisal, additional evidence base and proposed amendments before they

were submitted to the Secretary of State to then enable the Local Plan Inspector to resume and conclude their examination.

### Background

The Committee was aware that Section 1 of the submitted Local Plan ('the Section 1 Plan') set out an overarching strategy for future growth across Braintree, Colchester and Tendring (the 'North Essex Authorities' ('NEAs')). As well as including policies setting the overall housing and employment requirements for North Essex up to 2033, the Section 1 Plan proposed three new cross-boundary 'Garden Communities' along the A120 corridor with the potential for longer-term and comprehensively-planned growth. In contrast, 'the Section 2 Plan' for each of the three authorities contained more specific local policies and proposals relevant only to their individual area.

Members were also aware that before a Local Plan could be formally adopted by a Council, it must be examined by a Government-appointed Inspector whose job it was to check that: (1) the Plan had been prepared in line with various legal requirements; and (2) that the policies and proposals in the plan complied with the 'tests of soundness' contained within the National Planning Policy Framework (NPPF). Examination hearings for the Section 1 Plan had taken place between January and May 2018. In June 2018 the Inspector had written to the North Essex Authorities setting out his initial findings. Whilst he confirmed the legal compliance and soundness of some elements of the Plan and praised the NEAs' innovation and ambition, the Inspector had found some of the evidence and justification in support of Garden Communities to be lacking and had therefore been unable to pass the Section 1 Plan as 'sound'. The Inspector's specific concerns had been reported to the former Local Plan Committee at its meeting held on 30 October 2018 (Minute 6 referred).

In his letter, the Inspector had offered the NEAs advice and options for how best to proceed. Having considered his advice, the NEAs in October 2018 had confirmed that they remained committed to using Garden Communities principles to secure the future housing requirements in North Essex and would produce additional evidence to address each of the Inspector's concerns. On 10<sup>th</sup> December 2018, the Inspector had confirmed that he was satisfied that the proposals for further work on the evidence base satisfactorily responded to the points he had raised as identified issues and he had paused the examination until the NEAs' further work on the evidence base and an Additional Sustainability Appraisal had been completed. Monthly updates had been submitted to the Inspector on the programme timetable as requested.

That additional evidence had now been completed and the findings were detailed within the main body of the Corporate Director's report. Those findings were summarised as follows:-

### **Additional Sustainability Appraisal**

Some of the Inspector's biggest concerns had been about the previous Sustainability Appraisal (SA) which was both a legal requirement of the plan making process and a key piece of evidence in determining the most appropriate 'spatial' strategy for growth. The Inspector had found that some of its

assumptions were either not properly justified or were 'biased' in favour of the NEA's preferred spatial strategy for three Garden Communities and therefore did not represent an objective, or reliable, assessment. He had advised that further work would be needed to rectify those problems and he had further advised different consultants ought to be selected for that work.

The Committee was informed that the additional SA had been undertaken by consultants LUC who had followed a revised methodology that had been shared with the Inspector and had been the subject of consultation and engagement with statutory bodies and key participants in the Local Plan examination – taking particular care to ensure it addressed the Inspector's previous concerns. The Additional SA first tested a range of alternative development site proposals against a series of tried and tested 'sustainability criteria' applying assumptions guided, where possible, by information provided by site promoters themselves. The second stage of the SA then tested different combinations of those site proposals against the sustainability criteria which represented a reasonable range of alternative spatial strategies for the Authorities to consider in determining the most appropriate approach for the Local Plan.

It was reported that the findings of the Additional SA had indicated that many of the site proposals and alternative spatial strategy options were closely matched when assessed against the sustainability objectives. However, none of the alternative spatial strategies had stood out as performing notably stronger than the current strategy in the submitted Section 1 Local Plan. There was consequently nothing arising from this new evidence that had suggested that the current spatial strategy was not justified or needed to change to make way for an alternative approach. Officers had therefore recommended that the NEAs continued to promote the current spatial strategy involving the creation of three new Garden Communities in the locations currently proposed.

#### **Additional evidence base**

- **Housing Infrastructure Fund Bids:**

A progress update on two bids to the Government's 'Housing Infrastructure Fund' (HIF) by Essex County Council (ECC) to secure funding: (a) for the realignment of the A12 between Marks Tey and Kelvedon; and (b) for the construction of a link road between the A133 and A120 and a rapid transit system to the east of Colchester. This would demonstrate to the Inspector that positive progress was being made in securing the road infrastructure that would be a key to the delivery of the proposed Garden Communities. The bids were currently being evaluated by Homes England. ECC had written to Government Ministers setting out the importance of announcements on the outcome of the HIF bids being made as soon as possible.

- **A120 Dualling:**

Indicative timescales had been drawn up for the construction of a new dual carriageway between Braintree and the A12 south of Kelvedon, following ECC's favoured route announcement in June 2018. This would provide greater clarity to the Inspector over the timing of works and their implications for highway capacity and the delivery of Garden Communities.

- Rapid Transit:

A technical feasibility study from transport consultants Jacobs had been commissioned showing how and when a 'Rapid Transit System' (RTS) could be delivered to connect the new Garden Communities to key services, facilities and employment opportunities in and around Colchester, Braintree and Stanstead; and how much it was likely to cost. This would address the specific shortcomings in the previous evidence identified by the Inspector in his letter.

- Modal Shift:

A technical paper from consultants ITP had been commissioned which explained how, through RTS proposals and other measures, the NEAs could achieve a 'modal shift' target for 30% of all journeys to, from and within, the Garden Communities to be made by rapid transit. Again, this would address the Inspector's previous concern about the likelihood of achieving that target.

- Marks Tey Station:

Update from discussions with Network Rail that suggested that a relocation of Marks Tey Railway Station to the centre of the proposed Garden Community for the Colchester/Braintree Borders Garden Community was unlikely to be a practical option. Although the Garden Community had never been reliant on the station being relocated, there was now clarity in moving forward that the development would need to be planned to integrate with the station's existing location.

- Housing Delivery:

Research had been carried out by the NEAs on the rates of housing development that could be achieved on large scale developments following different models and approaches in order to satisfy the Inspector that the scales of development proposed for the Garden Communities were realistically deliverable.

- Viability:

A Viability Assessment (VA) update from consultants Hyas which had re-tested the economic viability of the three Garden Community proposals in light of updated cost and value assumptions, and which addressed the specific concerns raised by the Inspector in relation to assumptions made in the previous assessment – including the cost of RTS. The updated VA had confirmed that all three Garden Communities could be considered to be economically viable under a range of situations and scenarios which were considered to be rational and reasonable. West of Braintree Garden Community was viable under all modelled scenarios. The viability of the Colchester/Braintree Borders Garden Community and (to a lesser degree) the Tendring/Colchester Borders Garden Community were more dependent on securing Government investment for upfront infrastructure and/or inflation in future property values.

- Employment Land:

A paper had been prepared by the Centre of Economics and Business Research (Cebr) advising on the calculation of how much 'employment land' ought to be incorporated into the Garden Community proposals in order to meet the needs likely to arise from growth in business and industrial activities and to contribute towards overall employment growth. This addressed the Inspector's specific concern about the lack of any indication as to how much employment land would be provided at each of the three Garden Communities. Cebr's paper had provided figures which formed the basis of proposed modifications to the Section 1 Plan.

- Phasing and Delivery:

An Infrastructure Planning, Phasing and Delivery report had been prepared by consultants AECOM which explored and set out reasonable assumptions for how each of the three Garden Communities could be delivered in a phased manner. The assumptions in that report had been particularly useful in informing wider assumptions about infrastructure delivery and economic viability.

- Infrastructure Costs:

A detailed cost estimate had been produced by consultants Gleeds which set out the overall scope, scale and estimated costs of all strategic infrastructure requirements for each proposed Garden Community.

- Habitats Regulation Assessment (HRA):

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An assessment had been undertaken by consultants LUC of the likely effects of development in the Local Plan on wildlife sites of European importance. A HRA was a legal requirement and the report had been updated to take into account an important legal ruling from the Court of Justice for the European Union and the progress that Essex Authorities had made in developing the Essex Recreation disturbance Avoidance Mitigation Strategy (RAMS).

- Delivery Mechanisms:

A paper had been commissioned from legal firm Dentons which explained how it was intended that a public and private sector partnership in the form of a Local Delivery Vehicle would be used to deliver the Garden Communities and how this meshed with current Government thinking. That evidence had also included a paper on State Aid considerations.

It was felt that all of the above evidence supported the Officers' view that the current proposals in the Section 1 Local Plan were sound and, when presented to the Planning Inspector, would address all of his previous concerns.

### **Proposed amendments**

The Committee was made aware that, as well as producing the above evidence in response to the Planning Inspector's concerns about Garden Communities, the North Essex Authorities had also compiled a table of proposed amendments to the Section 1 Plan. Those amendments were aimed at addressing certain

issues identified by the Inspector, partner organisations and objectors to the Plan and ensuring that the Plan met the tests of soundness. Many of the proposed amendments had arisen from suggestions and discussions at the examination hearings in 2018 and the Inspector's interim findings whereas others had arisen from the findings of the additional evidence base.

Importantly, Officers were not recommending any substantial changes to the strategy for growth, as set out in the Section 1 Local Plan. The additional evidence prepared in response to the Inspector's original concerns had demonstrated that the establishment of three Garden Communities in the broad locations already identified in the plan was justified and represented an appropriate, sustainable and deliverable strategy.

It was reported that notable amendments included:

- New policies (SP1A and SP1B) in order to clarify how the Local Plan, taken as a whole, would operate in practice in the determination of planning applications; and to reflect the new Essex-wide approach to recreational disturbance avoidance and mitigation in relation to internationally important wildlife sites.
- Additional wording in Policy SP3: 'Meeting Housing Needs' in order to explain how the housing figures in the policy would be used for assessing each Authority's five-year housing supply requirements.
- Corrections to the employment land figures in Policy SP4 for the individual NEAs following the discussions at the examination hearings and the Inspector's subsequent advice.
- Additional wording for the infrastructure and connectivity policy (SP5) in order to provide greater clarity over what would happen if, for whatever reason, it became clear that the infrastructure required for the Garden Communities would not be funded or delivered; as well as identifying the key infrastructure projects that would need to be secured in advance of the start of the Garden Communities.
- The inclusion of specific employment land figures in the Garden Community policies SP7, SP8, SP9 and SP10 as well as additional wording in relation to waste water, the protection of European designated sites and the historic environment and specific infrastructure priorities relevant to specific Garden Communities.

The Committee was aware that it would be the Inspector's choice whether to accept the proposed amendments to the Local Plan through the resumed examination process, in determining whether it satisfied the necessary statutory requirements and was sound. Section 20(7C) of the Planning and Compulsory Purchase Act 2004 provided that the Inspector must, if asked to do so by the local planning authority, recommend formal modifications to the local plan that would satisfy the requirements mentioned in subsection 20(5)(a) and was sound, therefore such modifications could be suggested by the Inspector following conclusion of the examination.

### **Next steps**

Members were informed that if Full Council gave approval and the other NEAs also agreed, the Additional Sustainability Appraisal, all of the additional new evidence base documents listed above and the table of proposed amendments would be published for a six weeks public consultation period between 19 August and 30 September 2019 before they were submitted, along with any public representations received, to the Planning Inspector in order to enable him to resume the examination. It was expected that the further examination hearings would take place in late 2019 or early 2020.

After comments and questions on the actual subject matter of the report, some Members expressed concern about the volume of the information to be digested and the time to do this. In response to a procedural question, in respect of participation and voting at this meeting and at Council, the Head of Legal Services and Monitoring Officer confirmed that statements and voting at this Committee did not bind the Member in respect of the item's consideration at Full Council.

Having considered and discussed the contents of the Corporate Director's comprehensive report and appendices:-

It was moved by Councillor Newton, seconded by Councillor Skeels and:-

**RECOMMENDED TO COUNCIL** that –

- a) the additional evidence base summarised within Appendices 2 to 11 to the report of the Corporate Director (Planning and Regeneration) and available in full as background papers be accepted as part of the evidence base for Section 1 of the submitted Local Plan which contains strategic planning policies and proposals common to the North Essex Authorities of Braintree, Colchester and Tendring;
- b) the findings of the Additional Sustainability Appraisal work (summarised in Appendix 1 to the aforementioned report) which appraises the submitted Local Plan strategy for three cross-border Garden Communities and the reasonable alternatives to such strategy be approved;
- c) the Additional Sustainability Appraisal work and evidence base (including the additional evidence) be endorsed as supporting the existing spatial strategy for growth in the submitted Local Plan proposing three cross-border Garden Communities and that it is justified as being the most appropriate strategy;
- d) the schedule of proposed amendments to the submitted Local Plan (attached as appendix 12 to the above report) be approved;
- e) a six-week public consultation on the schedule of proposed amendments, the Additional Sustainability Appraisal work and the additional evidence base be undertaken, starting on 19 August 2019 and ending on 30 September 2019;
- f) following that period of public consultation, the above-mentioned documents along with any duly made representations received during the public consultation period, be submitted to the Secretary of State in order to enable the Local Plan

Inspector to resume and complete the examination of the Section 1 Local Plan; and

- g) the Local Plan Inspector be formally requested to recommend any further modifications to the Publication Draft Local Plan as necessary in order to make it 'sound'.

[Note: In respect of this item, at the conclusion of the meeting, the Committee's Chairman stated that all Councillors will be sent a copy of this report within the next couple of days to ensure that they had access to all the information for at least two weeks before the meeting of the Council. In addition, an offer of another All Member Briefing on this matter prior to 6 August was made.]

7. **REPORT OF THE CORPORATE DIRECTOR (PLANNING AND REGENERATION) - A.2 - UPDATED HOUSING SUPPLY POSITION, HOUSING TRAJECTORY AND STRATEGIC HOUSING LAND AVAILABILITY ASSESSMENT (SHLAA)**

The Committee had before it a detailed report (and appendices) of the Corporate Director (Planning and Regeneration) (A.2) which reported:-

- the number of new homes built in the District during the 2018/19 financial year;
- the current housing land supply position (the 'five-year' supply);
- the updated year-by-year trajectory for building new homes over the remainder of the new Local Plan period up to 2033; and
- the new Strategic Housing Land Availability Assessment (SHLAA) which provided the detailed evidence base for the above figures.

Housing Completions

It was reported that, in the period 1 April 2018 to 31 March 2019, 915 new homes had been completed in the District. This meant that the housebuilding target for the District (550 homes a year as set out in the emerging Local Plan) had been achieved for a third year in succession.

Five Year Supply

The Committee was informed that, in February 2019, the Government had made amendments to the National Planning Policy Framework (NPPF) which affected the way Councils calculated whether they could identify a five year housing supply. Where a Council's adopted Local Plan housing policies were more than five years old (as was the case for Tendring District Council), they were required to calculate housing supply against a 'local housing need' figure generated using the Government's standard methodology which, for this Council, meant a housing target of 863 homes a year as opposed to the 550 homes a year target in the emerging (but yet to be adopted) Local Plan. As a result of this change in Government planning policy which affected the way housing supply was calculated, the Council could technically only demonstrate a 4.2 year supply of deliverable housing sites. The implications of this were reported in the main body of the Corporate Director's report.

Housing Trajectory

Members were made aware that the Council could, however, demonstrate that the Local Plan requirement of 11,000 new homes between 2013 and 2033 could be met and comfortably exceeded. This would be through a combination of homes already completed since April 2013, development on large sites with planning permission, sites allocated for development in the Plan and small 'windfall' sites.

Having considered and discussed the contents of the Corporate Director's comprehensive report and appendices:-

It was moved by Councillor Fairley, seconded by Councillor Coley and:-

**RESOLVED** that the contents of the Corporate Director's Report be noted and the new Strategic Housing Land Availability Assessment (attached as Appendix 1 thereto) be endorsed as evidence to support the deliverability of housing proposals in the new local plan and to demonstrate an up-to-date five year housing land supply position for the purposes of determining planning applications and contesting planning appeals.

8. **REPORT OF THE CORPORATE DIRECTOR (PLANNING AND REGENERATION) - A.3 - ESSEX COASTAL RECREATIONAL DISTURBANCE AVOIDANCE AND MITIGATION STRATEGY (RAMS)**

The Committee had before it a comprehensive report (with appendices) of the Corporate Director (Planning and Regeneration) (A.3) which provided an update on the Essex Coastal Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and which described how this could affect the Council's planning policies and decision-making in the future.

Members were informed that twelve Essex local planning authorities were working together on a mitigation strategy in order to protect the internationally designated Essex Coast from the effects of increased recreational disturbance as a result of population growth throughout Essex.

The Strategy sets out the necessary measures to avoid and mitigate the effects from increased recreational disturbance. The RAMS set a tariff of £122.30 per dwelling. This tariff would apply to all residential proposals, even proposals for one dwelling. This was because the whole of the District was within the Zone of Influence and the RAMS sought to avoid and mitigate the in-combination effects from all new dwellings.

The Committee was advised that in order to comply with the European Habitat Regulations, this Council was already seeking the said contribution from all new dwellings via legal agreements – but that the consultation on, and adoption of, the Supplementary Planning Document would ensure that this arrangement was formalised in a consistent way across Essex.

A number of comments were made by Members in respect of improving the access to designated protected habitats in order to reduce the impact of visitors to those habitats.

In response to a question, the Planning Manager confirmed that the proposed Essex RAMS tariff would apply to single dwelling developments as it would to

larger developments. In the same way, the current approach to the application of the tariff albeit without the benefit of supplementary Planning Document as now submitted for consultation applied to single dwelling developments and larger developments.

Having considered and discussed the contents of the Corporate Director's comprehensive report and appendices:-

It was moved by Councillor Scott, seconded by Councillor Skeels and:-

**RESOLVED** that –

- (a) the Draft Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) be approved for consultation purposes and that the contents of the RAMS Strategy Document (Technical Report and Mitigation Report) be noted; and
- (b) the Head of Planning be authorised to make minor changes to the SPD should it be necessary prior to the commencement of the consultation.. Any changes considered by the Head of Planning to be more than minor will be reported back to the Committee prior to any such consultation commencing.

The meeting was declared closed at 7.58 pm

**Chairman**

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