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Planning Policy and Local Plan Committee

15 July 2020

**MINUTES OF THE MEETING OF THE PLANNING POLICY AND LOCAL PLAN
COMMITTEE,
HELD ON WEDNESDAY, 15TH JULY, 2020 AT 10.00 AM
THE MEETING WAS HELD IN ACCORDANCE WITH THE PROVISIONS OF SI
2020/392.**

Present:	Councillors Turner (Chairman), Fairley (Vice-Chairman), Allen, Bush, Chapman, Chittock, G V Guglielmi, I J Henderson, Newton, Scott and Winfield
Also Present:	Councillor Cawthron
In Attendance:	Paul Price (Deputy Chief Executive & Corporate Director (Place and Economy)), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Gary Guiver (Temporary Assistant Director (Strategic Planning and Place)), Ian Ford (Committee Services Manager), Keith Durran (Democratic Services Officer), Will Fuller (Planning Officer), Karen Hades (IT Training Officer), Matt Cattermole (Communications Assistant), Paul Woods (Development Technician) and Hattie Dawson-Dragisic (Appentice (Democratic Services & Elections))

11. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors S A Honeywood (with Councillor Chittock substituting) and Broderick (with Councillor Colin Winfield substituting).

12. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the Minutes of the last meeting of the Committee held on 8 June 2020 be approved as a correct record.

13. DECLARATIONS OF INTEREST

Councillor C Guglielmi declared an interest in relation to Agenda Item 7 – Report A.1-Section 1 Local Plan: Planning Inspector's Post-Hearing Letter and in relation to Agenda Item 8 – Report A.2 - Colchester Tendring Borders Garden Community - Development Plan Document insofar as he was an alternate Director for the NEGC Ltd.

14. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

On this occasion no Councillor had submitted notice of a question.

15. PUBLIC SPEAKING

Mr Keith Boddington had submitted a question in relation to item agenda A.1 in which he asked the Chairman of the Committee:-

“How can Tendring District Council enter into any future agreement over a proposed new garden city with Colchester Borough Council who are prepared to let NEGC Limited

be liquidated at vast expense thus reducing any clawback of the one eighth of £8 million contribution made by Tendring taxpayers so far?"

The Chairman of the Committee (Councillor Turner) replied as follows:-

"Many thanks to Mr. Boddington for his question and I apologise that my answer will be very short.

The remit of this particular Committee is only to oversee the preparation of the Local Plan and other related planning documents. However, I can inform Mr. Boddington that the future of NEGC Ltd. will be the subject of consideration by the Council's Cabinet on 24th July and a report containing more details will be published this week.

I can also say that the future of NEGC Ltd. is something being considered jointly by the North Essex Authorities as well as by Essex County Council and the recommendations to Members of all four Councils will be consistent.

Irrespective of what happens with NEGC Ltd., the Planning Inspector has given the green light to the Tendring Colchester Borders Garden Community, which is part of the NEGC – a development that will bring mutual benefits and mutual opportunities for Colchester and Tendring and it will be in both Councils interest to work together constructively to prepare the planning framework for the scheme, get the link road and rapid transit system in place and deliver a new community that embraces the garden city principles."

Mr Bill Marshall made statements in relation to report items A.1, A.2 and A.4 of the agenda as follows:-

- (1) In relation to the report of Corporate Director (Place & Economy) - A.1 - Section 1 Local Plan: Planning Inspector's Post-Hearing Letter, Mr Marshall called into question the soundness of the Colchester and Tendring Garden Community proposal and suggested that the Council should "cut its losses", scrap the Local Plan and start again with an alternate housing solution.
- (2) In relation to the report of Corporate Director (Place & Economy) – A.2 - Colchester Tendring Borders Garden Community - Development Plan Document, Mr Marshall stated that the previous public consultation undertaken in 2019 had been inadequate and suggested that for the next consultation be made available to all residents within the Tendring District and especially, that those residents principally affected by the Garden Community proposal be informed directly in order that they could make representations.
- (3) In relation to the report of Corporate Director (Place & Economy) – A.4 - Amendments to Policy PPL10: Renewable Energy generation and Energy Efficiency Measures, Mr Marshall stated that he believed that the proposed amendments to the Policy PPL10 would place an intolerable burden on property developers and builders and will make the future supply of affordable housing unviable due to the cost that would be incurred delivering to those standards.

16. REPORT OF CORPORATE DIRECTOR (PLACE & ECONOMY) - A.1 - SECTION 1 LOCAL PLAN: PLANNING INSPECTOR'S POST-HEARING LETTER

Councillor G V Guglielmi had earlier in the meeting declared an interest in relation to this item, insofar as he was an alternate Director for the NEGC Ltd.

The Committee had before it a comprehensive report (and appendices) of the Corporate Director (Place and Economy) (A.1) which reported:-

- a) the findings of the Local Plan Inspector as to the legal compliance and 'soundness' of the Section 1 Local Plan for North Essex following the further examination hearings of January 2020 and the receipt of his latest letter dated 15 May 2020;
- b) the next steps of the plan-making process required to make the plan 'sound' including consultation on the Local Plan Inspector's recommended 'modifications'; and
- c) highlighted any implications of the Inspector's findings for the content and next steps for progressing both Section 2 of the Local Plan which contained planning policies and proposals specific to Tendring and the 'Development Plan Document' (DPD) which would set out the more detailed parameters for the Tendring Colchester Borders Garden Community.

Key Points

Members were informed of the key points of the report as follows:

- following further examination hearings held in January 2020, the Planning Inspector had issued a further 'post-hearing letter' to the North Essex Authorities (NEAs) on the shared Section of the Braintree, Colchester and Tendring Local Plans.
- the Inspector had concluded that two of the three proposed Garden Communities (i.e. the Colchester Braintree Borders Garden Community and the West of Braintree Garden Community) were not viable or deliverable and that therefore Section 1 of the Local Plan, in its current form, was not 'sound'.
- the Inspector had, however, agreed that the Tendring Colchester Borders Garden Community was viable and deliverable and that the housing and revised employment targets in the Local Plan were also sound, including the requirement of 550 homes a year in Tendring.
- in the event that a Local Plan was found not to be sound, the Inspector must, if asked to do so by the local planning authority, recommend modifications to the Local Plan that would make it sound. This Council had requested that through its previous decisions.
- the Inspector had therefore given the NEAs two options on which to proceed:
 - 1) undertake a consultation on the main modifications in order to remove the Colchester Braintree Borders and West of Braintree Garden Communities from the Local Plan and other necessary 'modifications'; or
 - 2) withdraw the Plan and start again.
- to continue with the Draft Local Plan the first option of consulting on the main modifications suggested must be undertaken, otherwise the alternative position was that the Plan was withdrawn from examination and this Council would be required to start again. All three of the NEAs (Tendring, Braintree and Colchester) would need to come to the same conclusion.

Findings

Members were aware that, on 15 May 2020, the NEAs had received a letter from the Inspector setting out his findings. The Inspector had concluded that, in its current form, Section 1 of the Local Plan did not meet the Government's tests of soundness. In particular, two of the three proposed Garden Communities had not been demonstrated to be economically viable or deliverable – thus making the overall plan unsound.

The Inspector had determined that the Councils had been too optimistic in their assumptions about: 1) the rate of housebuilding that could be achieved on an annual basis at each of the Garden Communities; and 2) the costs of delivering a Rapid Transit System (RTS) that linked all three Garden Communities to existing towns. Those factors combined the Inspector concluded, led to both the proposed Colchester Braintree Borders Garden Community (at Marks Tey) and the West of Braintree Garden Community (near Rayne) being not likely economically viable or deliverable.

However, the Tendring Colchester Borders Garden Community (TCB) (between Elmstead Market and Colchester) was smaller; its delivery was less dependent on achieving very high rates of housebuilding on an annual basis; and Essex County Council had secured £99 million of Housing Infrastructure (HIF) funding to deliver the necessary A120/A133 link road and RTS that would link the Garden Community to Colchester. The Inspector had therefore concluded that the TCB was viable, deliverable and sound and could realistically deliver around 2,000 (of a total 7,000-9,000) homes between then and 2033.

Notwithstanding his rejection of two of the three Garden Communities, the Inspector had advised that the three Councils had properly followed the relevant legal and procedural requirements and that the housing and revised employment targets set out in the plan (including Tendring's requirement of 550 homes a year) were sound. He had also endorsed the Councils' approach to mitigating the impacts of development on internationally important wildlife sites through the 'Recreational disturbance Avoidance Mitigation Strategy' (RAMS).

Options for how to proceed

It was reported that though the Inspector had found the Plan to be unsound in its current form, he had advised that the Plan had the potential to be 'made sound' and that it could still progress to adoption if the three Councils agreed to remove the Colchester Braintree Borders and West of Braintree Garden Communities and consulted the public and other interested parties on that 'main modification', along with other main modifications to the Plan recommended by the Inspector.

The alternative to the above would be to withdraw the Local Plan from the examination – which would effectively require all three Councils to start their Plans again from scratch.

Colchester Borough Council and Braintree District Council had received the same conclusion within reports to their respective bodies.

Proposed Modifications

The Committee was informed that Officers had also received draft details of the 'main modifications' to the Section 1 Local Plan that the Inspector was likely to recommend – the majority of which took on board the suggested amendments that the Committee had considered and agreed for consultation in 2019. The most notable of the additional modifications being indicated by the Inspector were those that removed the West of Braintree and Colchester Braintree Borders Garden Communities from the policies and associated maps and diagrams in the Section 1 Local Plan and any other references to those developments in the text of the Plan.

Other main modifications included a new policy on 'Recreation disturbance Avoidance and Mitigation Strategy' (RAMS) and amendments to Policy SP4 'Providing for Employment' updated the employment land requirements for each of the three Councils to reflect the latest evidence, which included the requirement for Tendring for between 12 and 20 hectares of new employment land in the planned period to 2033.

The full schedule of draft main modifications was attached as Appendix 2 to the Officer report. If the three Local Authorities agreed to proceed with the current Local Plan process, Officers would make a formal request to the Inspector to issue his finalised schedule of main modifications.

Implications for the Section 2 Local Plan and Garden Community DPD

The Committee was informed that, importantly, for Tendring, the Inspector had concluded that the Tendring Colchester Borders Garden Community was sound and could reasonably be expected to deliver around 2,000 homes up to 2033 (of which around 1,000 (i.e. half) would contribute towards meeting Tendring's housing requirements). He had also re-confirmed the soundness of Tendring's objectively assessed housing requirement of 550 dwellings per annum. If all three Councils agreed to undertake public consultation on the necessary modifications to the Section 1 Local Plan (rather than withdrawing it from the examination), there should be no need to find any additional sites for housing for inclusion in Tendring's Section 2 Plan.

The Inspector had also raised no issues with Tendring's employment land requirement being within the range of 12 and 20 hectares up to 2033 with a potential additional 25ha hectares of employment land to be provided as part of the Tendring Colchester Borders Garden Community.

Confirmation of the soundness of the Tendring Colchester Borders Garden Community would also allow Tendring District Council and Colchester Borough Council to progress with the work required for the preparation of a 'Development Plan Document' (DPD) setting out more detailed parameters for the Garden Community.

The implications of the Inspector's findings on the future role of 'North Essex Garden Communities' (NEGC) as a delivery vehicle for Garden Communities (given that only one of the three developments can now proceed) would be the subject of a separate report to Cabinet in due course.

Next steps

It was reported to Members that, subject to agreement by the Local Authorities, Officers would respond to the Planning Inspector to confirm that the NEAs would proceed with the removal, from Section 1 of the Plan, of the Colchester Braintree Borders and West

of Braintree Garden Communities and that they wished to proceed with the examination of the Local Plan by undertaking public consultation on his main modification, along with other main modifications recommended by the Inspector. The Inspector would be requested to formally issue his finalised schedule of main modifications and advise the NEAs on the programme and timescales for the remainder of the examination.

The next stage would then be for the Councils to publish the main modifications for a six week public consultation. The Council's Consultants LUC were preparing an update to both the Sustainability Appraisal (SA) and the Habitats Regulation Assessment (HRA) in order to assess the socio-economic and environmental impacts of Section 1 of the Local Plan with the Inspector's recommended main modifications and those documents would be published for consultation alongside the modifications. Any comments received would be submitted to the Inspector for his consideration before he came to a final decision on whether Section 1 of the Plan, with those modifications, was sound and could be formally adopted. It was proposed that, subject to the Inspector's agreement and completion of the SA and HRA work, the public consultation would take place in August and September 2020.

In the meantime, TDC Officers would continue work to prepare for the examination of Section 2 of the Local Plan and the preparation of the Tendring Colchester Borders Garden Community DPD. Once the three Local Authorities had come to a decision on how to progress with the Section 1 Local Plan, the Planning Inspectorate would advise the Councils on the likely timetables for the Section 2 examinations.

Having duly considered and discussed the contents of the report and its appendices:-

It was moved by Councillor G V Guglielmi, seconded by Councillor I J Henderson and:-

RESOLVED that the Planning Policy and Local Plan Committee -

- a) notes the findings of the Planning Inspector's letter dated 15 May 2020 (attached as Appendix 1 to the Officer report) and his recommended modifications (attached as Appendix 2 thereto);
- b) following the agreement of the Leader of the Council, agrees to proceed with the Inspector's suggested main modification to remove both the Colchester Braintree Garden Community and the West of Braintree Garden Community from the Section 1 Local Plan for the purposes of soundness;
- c) subject to the views of the other North Essex Authorities (Colchester Borough Council and Braintree District Council), authorises the Temporary Assistant Director (Strategic Planning and Place) to notify the Planning Inspector of the intention to continue with the present Local Plan process; formally request his finalised schedule of recommended main modifications for soundness and that he establish the timescales for the consultation exercise and subsequent stages in the process;
- d) notes that public consultation will be undertaken on all 'main modifications' recommended by the Planning Inspector to make the Local Plan sound (as set out in draft in Appendix 2); and
- e) notes that an update to the Sustainability Appraisal (SA) and the Habitat Regulations Assessment (HRA) for the Modified Section 1 Local Plan will need to be produced and published for the public consultation alongside the Inspector's

main modifications and that consultants LUC are already instructed to undertake this work.

17. REPORT OF CORPORATE DIRECTOR (PLACE & ECONOMY) - A.2 - COLCHESTER TENDRING BORDERS GARDEN COMMUNITY - DEVELOPMENT PLAN DOCUMENT

Councillor G V Guglielmi had earlier declared an interest in relation to this item insofar as he was an alternate director for the NEGC Ltd.

The Committee had before it a report (and appendix) of the Corporate Director (Place and Economy) (A.2) which sought to update it on the work intended to be carried out for the preparation of a 'Development Plan Document' (DPD) for the Tendring Colchester Borders Garden Community which would guide its future growth and development.

Key Points

Members were informed of the key points of the report as follows:-

- of the three Garden Communities that had been originally proposed in the shared Section 1 of the Local Plan for North Essex, only the Tendring Colchester Borders Garden Community had been found, by the Planning Inspector, to be deliverable and sound.
- assuming all three of the North Essex Authorities (NEAs) (Tendring, Braintree and Colchester Councils) agreed to proceed with consultation on the Inspector's recommended modifications to the Section 1 Local Plan, it was intended that a 'Development Plan Document' (DPD) would be prepared jointly by Tendring District Council and Colchester Borough Council which would contain the more detailed parameters and policies in order to guide the development of the Tendring Colchester Borders Garden Community. (TCBGC).

On that basis, Tendring and Colchester wished to proceed with the next stages of plan-making for the Garden Community which would involve the preparation of a DPD to guide development. The DPD provided the next level of detail required to progress the overall high-level Garden Community principles mandated by Section 1. Adoption of the DPD would entail joint working between the two Councils, in consultation with stakeholders at all stages of plan development. It was expected that the DPD would be a joint planning document adopted by both Councils.

It was reported to the Committee that an initial consultation on Issues and Options had been held on the TCBGC from November 2017 to January 2018. The study work and responses from that consultation formed a starting point for the next phase of work, bearing in mind the changes during the intervening period. In addition to Section 1 of the Local Plan developments, key amongst the changes was the Councils' successful bid for £99million, in Housing Infrastructure Funding (HIF) for an A120/A133 link road and a Rapid Transit Scheme (RTS) to support the proposed Garden Community. Work undertaken to inform the HIF projects had been carried out with the requirements of the Garden Community and its DPD in mind, so studies and masterplans completed for those essential infrastructure projects would feed into the DPD process.

The Committee was aware that the two Councils would work together to commission the further evidence and master-planning work required to support the DPD. As with

master-planning work carried out for the Issues and Options stage, such work would include focused consultation with stakeholders and existing communities in the vicinity of the TCB GC.

The precise timetable for the DPD was not then fixed but the Local Development Scheme would be brought back to the Committee for scrutiny, with adoption currently programmed for 2022.

Having duly considered and discussed the contents of the report and its appendices:-

It was moved by Councillor G V Guglielmi, seconded by Councillor Chapman and unanimously:-

RESOLVED that the proposals for the preparation of a Development Plan Document for the Tendring Colchester Borders Garden Community be noted.

18. REPORT OF THE CORPORATE DIRECTOR (PLACE & ECONOMY) - A.3 - PROPOSED AMENDMENT TO THE STATEMENT OF COMMUNITY INVOLVEMENT

The Committee had before it a report (and appendix) of the Corporate Director (Place and Economy) (A.3) which sought to seek its approval of the proposed amendments to the Statement of Community Involvement (SCI) In light of the Coronavirus (COVID19) pandemic.

Key Points:

Members were informed of the key points of the report as follows:

- the Statement of Community Involvement (SCI) detailed the way in which the public would be consulted on all planning matters;
- due to the Coronavirus and current Government guidance the Council could not carry out consultations in the same way;
- it was therefore recommended that Members agree a covering note that would be incorporated into the existing SCI in order to explain the current situation.

Having duly considered and discussed the contents of the report and its appendix:-

It was moved by Councillor G V Guglielmi, seconded by Councillor Fairley and:-

RESOLVED that the Planning Policy and Local Plan Committee –

- a) agrees the recommended revisions to the Council's Statement of Community Involvement (SCI) (as shown in Appendix 1 to the Officer report) to reflect the specific requirements arising from national guidance and procedures on dealing with coronavirus implications; and
- b) authorises Officers to publish the updated SCI on the Council's website.

19. REPORT OF THE CORPORATE DIRECTOR (PLACE & ECONOMY) - A.4 - AMENDMENTS TO POLICY PPL10: RENEWABLE ENERGY GENERATION AND ENERGY EFFICIENCY MEASURES

The Committee had before it a report of the Corporate Director (Place and Economy) (A.2) which sought its endorsement for suggested amendments to Policy PPL10 on 'Renewable Energy Generation' in Section 2 of the Council's emerging Local Plan. That followed a meeting involving Members of the Council's Climate Change Working Group and of this Committee held on 25th June 2020, when a form of wording had been agreed for this Committee's consideration.

The Committee recalled that, at its last meeting held on 8 June 2020, it had been asked to consider a number of suggested amendments to certain planning policies in Section 2 of the Council's emerging Local Plan relating to housing design standards, efficiency and accessibility. Most of the suggested amendments had been agreed by the Committee and would be put forward to the Planning Inspector, as appropriate, for their consideration as part of the Local Plan examination process. It had been, however, decided on that occasion that consideration of any amendments to Policy PPL10 on 'Renewable Energy Generation' would be deferred in order to allow discussion with the Council's Climate Change Working Group to ensure that they properly embraced the ambitions of the Council in tackling the climate emergency.

On 25th June 2020, Members from the Climate Change Working Group and from this Committee had met, remotely via Skype and had discussed potential further amendments to Policy PPL10. The wording that had been agreed was as follows:

“Policy PPL10 - RENEWABLE ENERGY GENERATION AND ENERGY EFFICIENCY MEASURES

Proposals for renewable energy schemes will be considered having regard to their scale, impact (including cumulative impact) and the amount of energy which is to be generated. All proposals for new development of any type should consider the potential for a range of renewable energy solutions, appropriate to the building(s), site and its location, and should include renewable energy installations, and be designed to facilitate the retro-fitting of renewable energy installations. For residential development proposals involving the creation of one or more dwellings, the Council will expect detailed planning applications to be accompanied by a 'Renewable Energy Generation Plan' (REGP) setting out the measures that will be incorporated into the design, layout and construction aimed at maximising energy efficiency and the use of renewable energy. The REGP must demonstrate how the following measures have been considered and incorporated

:

- Triple Glazing;*
- Solar Roof Panels or Solar Tiles*
- Air Source Heating Systems*
- Ground Source Heating Systems*
- Super Insulation (walls and loft void)*
- Rainwater Capture Systems*
- Electric Vehicle Rapid Charging Points (provided to an individual dwelling or through an appropriate communal facility)*
- Superfast Broadband and a flexible space within each home to enable home working and a reduction in the need to travel*
- Mechanical Heat Recovery Ventilation*
- Solar Thermal Systems*
- Solar and Battery Storage Systems; and (where appropriate)*

- *Other newer or alternative technologies and measures aimed at maximising energy efficiency and the use of renewable energy.*

Planning permission will only be granted where the applicant can demonstrate that the above measures have been fully considered and, where viable and appropriate, incorporated into the design, layout and construction. The Council will consider the use of planning conditions to ensure the measures are delivered.

To maximise the effectiveness of Solar Panels, buildings should be planned and orientated to have a strong southerly aspect and for the south side of pitched roofs to be rectilinear and uncluttered. Dormer Windows, hipped roofs and corner tower elements should be confined to the northern side of pitched roofs.

Nothing in this policy diminishes or replaces the requirements of Energy Performance Certificates (EPC) and Standard Assessment Procedures (SAP) for constructed buildings and compliance with the relevant building regulations.”

Members were informed that the advantage of the proposed policy wording was that rather than setting out a prescriptive list of requirements, it placed the onus on the applicant for planning permission to submit material in order to demonstrate how they had considered the available range of technologies and measures that could be put in place to maximise energy efficiency and the use of renewable energy and how they had incorporated them into their design, layout and construction. Where certain measures were considered to be inappropriate, impractical or unviable, the applicant's response to this policy gave them the opportunity to explain their reasoning. Planning Officers and Members of the Planning Committee could then determine whether proposals had met the requirements of the policy and had achieved an appropriate response to climate change.

Officers supported the proposed wording and saw it as a reasonable, justified and workable response to the climate change emergency.

Members were aware that the Local Plan had already been submitted to the Secretary of State for it to be examined by a Government-appointed Planning Inspector. The Inspector had the power to recommend 'modifications' to the Local Plan, following the examination, aimed at addressing any issues with the soundness of the Plan. Whilst it would be at the Inspector's discretion which modifications were formally recommended, the Council would have the opportunity to suggest changes to the Inspector, for their consideration, as part of the examination process.

Having duly considered and discussed the contents of the report:-

It was moved by Councillor Allen, seconded by Councillor Bush and unanimously:-

RESOLVED that the Planning Policy and Local Plan Committee –

- a) approves the revised wording for Policy PPL10 in the Tendring District Local Plan 2013-2033 and Beyond: Publication Draft (the emerging Local Plan), as set out in the Officer report;
- b) authorises the Temporary Assistant Director (Strategic Planning and Place), in consultation with the Chairman of the Planning Policy and Local Plan Committee,

to put forward the suggested wording (in the form of amendments to the current draft policy), to the Planning Inspector for their consideration as part of the examination of Section 2 of the Local Plan;

- c) authorises the Temporary Assistant Director (Strategic Planning and Place), in consultation with the Chairman of the Planning Policy Local Plan Committee, the Chairman of the Council's Climate Change Working Group and the Assistant Director (Housing and Environment), to draft associated amendments to the 'supporting text' or 'preamble' to Policy PPL10 which will also be put forward for the Inspector's consideration as part of the examination process.

The meeting was declared closed at 11.27 am

Chairman

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