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Community Leadership Overview and
Scrutiny Committee

1 March 2021

MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND SCRUTINY COMMITTEE, HELD ON MONDAY, 1ST MARCH, 2021 AT 6.00 PM

Present:	Councillors Chittock (Vice-Chairman), Amos, Davidson, Davis, King, Miles and Steady
In Attendance:	Anastasia Simpson (Assistant Director (Partnerships)), Keith Simmons (Head of Democratic Services and Elections) and Keith Durran (Democratic Services Officer)

1. **CHAIRMAN FOR THE MEETING**

In the absence of the Chairman of the Committee (Councillor Skeels), the Chair was occupied by the Vice-Chairman (Councillor Chittock).

2. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Councillor Skeels and Councillor Clifton sent their apologies (no substitutions).

3. **DECLARATIONS OF INTEREST**

There were none on this occasion.

4. **QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

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

5. **REFERENCE REPORT FROM THE NEGC LTD JOINT SCRUTINY PANEL - A.1 - SCRUTINY OF NEGC LTD AND GOVERNANCE OF FUTURE COUNCIL CONTROLLED COMPANIES.**

It was reported to Members that the Resources and Services Overview and Scrutiny Committee and the Community Leadership Overview and Scrutiny Committee, at their respective meetings held on 29 July 2019 (Minute 15 referred) and 5 August 2019 had both approved that a joint scrutiny panel be established in order to scrutinise the work of the North Essex Garden Communities Limited (NEGC) and, in particular, its interim business plan and future business plans. This decision recognised that elements of the scrutiny process concerning the work of NEGC Ltd were within the terms of reference of both Committee and therefore a joint scrutiny panel provided an effective use of capacity and resources.

The membership of the Joint Scrutiny Panel was reported to the Committee as were details of its meetings in 2019 and 2020. The Joint Scrutiny Panel had looked at the various responsibilities of the Council as community leader, shareholder of NEGC Ltd and having a Director of the Board of that Company. The inherent conflicts and the management of those conflict points were reported to the Panel and were summarised by the Head of Democratic Services and Elections to the Committee.

NEGC Ltd had been established in 2016/17 by the partner Councils (Braintree, Colchester, Essex and Tendring) to undertake work for those partner Councils to secure

approval of Part 1 of the District Local Plans as they all included commitments to Garden Communities across their combined areas. Councillor Neil Stock OBE had been appointed as the Council's Director on the NEGC Ltd Board.

Members were informed that across all meetings of the Joint Scrutiny Panel there was reference to best practice models for governance arrangements for Council controlled/influenced companies such as NEGC Ltd. In part that discussion was about what might be appropriate for the future development of governance around NEGC Ltd, but, also around future companies that the Council may establish or participate in.

The Head of Democratic Services and Elections referenced the definitions in Part V of the Local Government and Housing Act 1989 and cited examples such as where Councils could determine over 50% of the Board of a Company as one that was controlled and between 20-49% of the Board as one that was influenced. In addition, since then, there were the recording requirements for Companies general of those persons with significant control. As such, it was distinguishable from circumstances where a Council held very little control of a Company. The arrangements referenced in the recommendations from the Joint Scrutiny Panel were not intended to apply to companies the Council had little influence or control over.

At the Joint Scrutiny Panel's last meeting, it noted the decision of the North Essex Garden Communities Ltd Board on 6th July 2020 to take all the necessary steps to wind up its three Local Delivery Vehicles. The three Councils concerned had also all approved that NEGC Ltd itself cease trading on 31 August 2020 and that the necessary winding up procedures for it be undertaken, subject to the Leader of the Council, in consultation with the Section 151 Officer and the Monitoring Officer, being satisfied around the final accounting processes.

On the basis that the NEGC Ltd was being wound up the Joint Scrutiny Panel had concluded its work based on the approved scope and terms of reference for the Panel. However, in looking at good governance models for Councils with controlled/influenced Companies, the Panel had recommended that a Shareholder Group be established should such a Company be established/joined in the future. It also indicated that the model terms of reference as submitted to the Panel should be the basis of the terms of reference for such a body but that they be adjusted as necessary for the particular circumstances, business of the Company concerned and consideration of such matters as how co-opted members were to be defined. The model terms submitted had originated with the Lawyers in Local Government organisation.

The Head of Democratic Services and Elections advised the Committee that, with the exception of NEGC Ltd, there were no other similar Companies where this Council would be recordable with Companies House as a "person with significant control" and there were no others he was aware of that were intended to be established/joined by the Council at this point in time.

The Committee was advised of the discussion at the Audit Committee on 25 February 2021 on the same matter and the Committee had before them the decision on the same as recorded in the draft Minutes from that meeting (Minute 18 refers).

Following discussions it was moved by Councillor Miles, seconded by Councillor Steady and **RESOLVED** that the Committee:

1. Notes that the Joint Scrutiny Panel has been dissolved following the decision for NEGC Ltd to cease trading (and for it to be wound up) as the rationale for establishing the Panel (and the approved scope of the Panel), has ended and that Cabinet be requested to note the same.

2. Notes the following recommendations from the Joint Scrutiny Panel and formally submits (a), (b), (d) and (e) below to the Cabinet for its consideration:
 - (a) To record and applaud the hard work of officers in respect of the development of the Tendring-Colchester Borders Garden Community that resulted in the proposals for the Garden Community being accepted by the Local Plan Inspector in his enquiry into the draft Local Plan.
 - (b) To note that there is important work being undertaken on various work streams to secure an exemplar development through the Tendring-Colchester Borders Garden Community.
 - (c) To establish a further Joint Scrutiny Panel at an appropriate time in the future to monitor, examine and review arrangements for delivery of the Tendring-Colchester Borders Garden Community (and particularly the commitments and financial expose of the Council to any external body established by the Council to lead on the development of that Garden Community).
 - (d) To endorse the principle that where the Council establishes/joins a company limited by shares (on its own or with other bodies) that it also establishes a Shareholder Group (either solely or with the other public bodies where the company established jointly) and that a recommendation be submitted to Council to include this in the Constitution for when the Council does establish/join such a company.
 - (e) That the broad approach to the terms of reference of any such Shareholder Group, as submitted to the Joint Scrutiny Panel based on the good practice identified by Lawyers in Local Government, be referred to a small group made up of representatives from Cabinet, the Chairmen of the two Overview and Scrutiny Committees and the Chairman of the Audit Committee, together with the Monitoring Officer and the Section 151 Officer prior to further a further recommendation being submitted to the Cabinet.

The meeting was declared closed at 6.34 pm

Chairman

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