

TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

28 FEBRUARY 2022

A.1 INTRODUCTION TO THE NEW TENDRING COLCHESTER BORDERS GARDEN COMMUNITY (TCBGC) JOINT COMMITTEE

(Report prepared by Lisa Hastings and Andrew Weavers, Monitoring Officers at Tendring District and Colchester Borough Councils.)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To introduce the newly established Tendring Colchester Borders Garden Community Joint Committee appointed for the discharge of specific executive and non-executive functions and to cover any early administrative matters related to the Terms of Reference and Standing Orders agreed by Tendring District, Colchester Borough and Essex County Councils.

EXECUTIVE SUMMARY

A Joint Committee has been established by Tendring District Council (TDC), Colchester Borough Council (CBC) and Essex County Council (ECC) in relation to the Tendring Colchester Borders Garden Community (TCBGC).

The Joint Committee's remit is to jointly discharge those specific executive and non-executive functions related to TCBGC, delegated pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 on the Terms of Reference attached at Appendix A.

The functions delegated are set out in 4.2 (a) to (h) (in Appendix A). However, in summary there are two themes, namely:

- (i) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC Development Plan Document and ensuring it:
 - a. is in accordance with the Local Development Schemes;
 - b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;
 - c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
 - d. has regard to the adopted Section 1 of CBC & TDC's Local Plan;
 - e. has regard to the resources likely to be available for implementing the proposals in the document;
 - f. other such matters the Secretary of State prescribes; and
 - g. complies with the Council's Statement of Community Involvement.
- (ii) To act as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order

2015, within the TCBGC area.

There are limitations to these delegations and these are set out in paragraphs 4.3 and 4.4.

In addition, it must be noted that not all executive functions have been delegated, though further functions in relation to TCBGC may be delegated to the Joint Committee by the Leaders of each Council in the future. However, at this time, the initial focus of the Committee will be functions in connection with the preparation of the joint Development Plan Document and to determine any planning applications. Therefore, it is possible that questions will be raised for consideration which are outside the remit of the Joint Committee and officers will provide advice on these aspects should such matters arise.

All three Councils are represented on the appointed Joint Committee with full voting rights. However, Essex County Council decided at its meeting on 7th December 2021 that its membership would consist of two seats instead of three as approved by Tendring and Colchester Councils at their earlier meetings, therefore the make-up of the Joint Committee is as follows:

Membership:

- (iii) 2 Members appointed by TDC (one of which must be the Chairman of the Planning Policy and Local Plan Committee) plus 1 Cabinet member appointed by the Leader
- (iv) 2 Members appointed by CBC (one of which must be the Chairman of the Local Plan Committee) plus 1 Cabinet member appointed by the Leader
- (v) 2 Members appointed by ECC, one of whom should be a Cabinet Member or Deputy Cabinet Member.

For the purposes of introducing the Terms of Reference the Joint Committee's attention is drawn to the following administrative matters:

Quorum:

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

- (vi) 2 Members from Tendring District Council
- (vii) 2 Members from Colchester Borough Council
- (viii) 2 Members from Essex County Council

Substitute Members

Each Council has appointed one substitute member having the powers and duties set out in paragraphs 5.2 and 5.3.

Training:

All members of the Joint Committee shall have undertaken suitable training which shall have been approved by the parties. *This requirement will be necessary prior to the determination of any planning application, or as deemed necessary by officers advising the Joint Committee.*

Standing Orders:

The Joint Committee shall be governed by the Standing Orders set out in Appendix 3 of the Terms of reference. The Standing Orders can be amended by the Joint Committee from time to time within the scope of the Terms of Reference following consultation with the Councils' Monitoring Officers.

Administration:

Tendring District Council will be responsible for the administration of the Joint Committee and will undertake all matters connected thereto, including the preparation and dispatch of agendas and securing premises at which the Joint Committee may meet.

Public Speaking Rights

Members of the public have the public speaking rights set out in Annex A.

The Joint Committee has the power to amend the public speaking rights.

Matters to be determined are as follows:

It is necessary to agree a regular venue for the Joint Committee to meet and its starting time whilst providing flexibility for alternative arrangements if necessary. It is proposed that the University of Essex's Wivenhoe Park Campus is the regular venue for the Joint Committee going forward, due to its proximity to the site of the Garden Community. However, this will be subject to availability and a review as to its suitability in the light of the experience for both the Joint Committee and the public. It is recommended that the Committee agree that any interim alternative arrangements would be determined by Officers, in consultation with the Chairman of the Joint Committee.

Public Speaking Rights:

During discussion on the remit of the Public Speaking Scheme, elected Members have raised whether the ability to address the Joint Committee extends to them? During the production of the Scheme, it was always intended that elected Members would have this opportunity within the Scheme. Therefore it is proposed that the Joint Committee confirms the Scheme should be amended to expressly state that elected Members from the District, Borough and County Councils are able to address the Joint Committee on matters within the agenda. For the consideration of Planning Applications, Ward or Division Councillors for the Garden Community area or adjacent wards/divisions would have an additional right to address the Joint Committee.

Planning Probity Protocol:

The Joint Committee will be able to determine planning applications made in relation to development within the TCBGC area and therefore, it is important that a Planning Probity Protocol is adopted for the Joint Committee and it is recommended that officers be instructed to draw up and submit a suggested Protocol to a future meeting of the Joint Committee.

RECOMMENDATIONS

That the Tendring Colchester Borders Garden Community (TCBGC) Joint Committee:

- (a) notes the executive and non-executive functions related to TCBGC delegated to them pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972, as set out in the Terms of Reference attached at Appendix A;**
- (b) notes that Essex County Council has appointed two members and that the Terms of Reference should be amended by all three Councils accordingly for completeness;**
- (c) agrees that the regular venue and start time for the meetings of the Joint Committee will be the University of Essex's Wivenhoe Park Campus at 6pm and that any necessary alternative arrangements will be made by Officers, in consultation with the Chairman of the Joint Committee;**
- (d) agrees that the Public Speaking Rights Scheme be amended to expressly state that elected members from the three Councils are entitled to address the Joint Committee within the Scheme and that additional rights be given to Ward and Division Councillors for planning application determinations;**
- (e) subject to (d) delegated authority is given to the Monitoring Officers of the three Councils to agree the wording for the amendments and then to publish the revised scheme; and**
- (f) requests that Officers produce a draft Planning Probity Protocol for further consideration by the Joint Committee at a future meeting thereof.**

PART 2 – SUPPORTING INFORMATION

BACKGROUND

Tendring Colchester Borders Garden Community (TCBGC) is located across Tendring District Council's (TDC) and Colchester Borough Council's (CBC) Local Planning Authority's areas.

Both TDC and CBC have adopted a common Section 1 of their respective Local Plans, which have the shared vision of sustainable development and allocation of TCB Garden Community, which would be further defined through a joint Development Plan Document (DPD) providing detailed parameters and policies (as required within Section 1 – Policies SP8 & 9).

Section 1 of the Local Plans adopted by TDC and CBC Councils in 2021 contains a specific Policy (SP 8) for the Development & Delivery of a New Garden Community in North Essex. All development forming part of the garden community will comply with the principles set out in SP8.

Requirements of the TCBGC DPD are set out in Policy SP 9 of the adopted Section 1 of the Local Plans.

Due to the joint nature of Section 1 there was a case to be made for a Joint Committee for

TDC and CBC, which would also include members from ECC, continuing with the existing partnership working on this project. This format had been adopted elsewhere and linked into decisions around infrastructure and possibly other County matters.

It is possible to delegate various functions to a Joint Committee but that at this stage the Terms of Reference for the Joint Committee are limited to planning functions related to preparing for plan making through the DPD process; and development control and determination of planning applications for TCBGC against the common Section 1 and adopted DPDs. ECC has also delegated its relevant planning functions to the Joint Committee for the TCBGC.

All three Councils resolved at their respective Full Council meetings held in November and December 2021 to establish the Joint Committee. The Terms of Reference and Scheme of Delegation of the TCBGC Joint Committee are set out in Appendix A.

Further executive functions related to the TCBGC could be delegated by the Leaders of each Council, as the project develops and a partnership agreement might be deemed necessary between the Councils to formulate arrangements between them. Each Council is represented on a separate TCBGC Member Group, which will remain in place. However, its terms of reference and membership will be revised to prevent overlap or duplication with the role of the Joint Committee and to provide separation between the executive strategic decisions and direction retained by each Council.

BACKGROUND PAPERS FOR THE DECISION

Published Report and Minutes of the meeting of the TDC Full Council held on 30 November 2021.

Published Report and Minutes of the meeting of the CBC Full Council held on 2nd December 2021.

Published Report and Minutes of the meeting of the ECC Full Council held on 7 December 2021.

APPENDICES

Appendix A – Terms of Reference of the Joint Committee