

# TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

18 JULY 2022

## A.4 JOINT COMMITTEE PLANNING PROBITY PROTOCOL

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### PART 1 – KEY INFORMATION

#### PURPOSE OF THE REPORT

To consider the attached **Planning Probity Protocol** (Appendix A) related to the functions of the Tendring Colchester Borders Garden Community Joint committee. The Protocol describes how the Councils will deal with planning applications and other planning practices within the TCBGC area.

**Members of the Committee are requested to agree to the content of the Planning Probity Protocol and act in accordance with it going forward.**

#### EXECUTIVE SUMMARY

##### Key Points

- The Protocol applies and focuses on the functions and responsibilities of the Joint Committee for determining planning applications within the TCBGC area. Executive functions, not connected with the DPD process or otherwise delegated to the Joint Committee, but nonetheless relate to the TCBGC remain with each Council to exercise.
- Members of the Joint Committee are expected to observe the requirements and principles as set out in the Protocol at all times when involving themselves in the planning process.
- The planning system relies on Councillors and Officers acting in a way which is fair and is clearly seen to be fair. This includes acting in accordance with planning law in all instances, and paying due regard to national and local policies, in addition to all other “material planning considerations”.
- Each of the Councils forming the Joint Committee has their own locally adopted Members’ Code of Conduct which must always be complied with first. These are very similar and based upon the national Nolan Principles. Each Member of the Joint Committee must observe the requirements of their own Council’s Code, giving particular attention to declarations of interest.
- Decision-makers must not fetter their discretion by approaching the decision to determine a planning application with a closed mind. It is a legal requirement to approach the determination

of a planning application with an open mind to prevent a legal challenge for pre-determination or bias.

- Officers are responsible for carrying out their duties in compliance with the Royal Town Planning Institute Code of Conduct, in particular that Officers must not make or subscribe to any statements which go against their own professional standards.
- Care will be needed where there is contact with applicants, developers and objectors. Certain structured meetings can occur where there is transparency, consistency and fairness to all. Members may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.
- Councillors should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may subsequently prejudice their impartiality, and therefore their ability to participate in the Joint Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- The overriding duty is to the whole of the Garden Community area and not just to the people in the Ward/Division and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- Members of the Joint Committee should come to meetings with an open mind and demonstrate that they are open-minded. Decisions should be taken in accordance with the Section 1 of the Local Plan and the Development Plan Document unless material considerations indicate otherwise. Members should come to a decision only after due consideration of all of the information reasonably required upon which to base a decision.
- Planning applications may be brought forward as the DPD is progressing through examination and could be reported to the Joint Committee for consideration. Such applications would need to be considered on their overall planning merits, which would include the wider policy framework set by the adopted Section 1, the status of the DPD in terms of its advancement through the plan making process, any emerging findings from its consideration via an examination in public, and any other material planning considerations.
- All Councillors attending pre-application discussions must have first attended a training session on conduct at pre-application discussions. These training sessions will be organised by the respective Councils' Planning Service on a regular basis in order to ensure that the integrity of the Councillor's decision-making role is maintained.

## **RECOMMENDATION**

**That the Tendring Colchester Borders Garden Community Joint Committee Planning Probity Protocol (attached at Appendix A) be agreed and applied by Members and Officers.**

**A.4 APPENDIX A**  
**TENDRING COLCHESTER BORDERS GARDEN COMMUNITY**  
**JOINT COMMITTEE PLANNING PROBITY PROTOCOL**

**1. BACKGROUND:**

- (a) A Joint Committee has been established by Tendring District Council, Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community (TCBGC).
- (b) 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.
- (c) The functions delegated are set out in 4.2 (a) to (h) (in Appendix A) however, in summary there are two themes:
  - (i) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC Development Plan Document and ensuring it:
    - is in accordance with the Local Development Schemes;
    - 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;
    - 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;
    - has regard to the adopted Section 1 of Colchester Borough Council and Tendring District Council's Local Plan;
    - has regard to the resources likely to be available for implementing the proposals in the document;
    - other such matters the Secretary of State prescribes; and
    - complies with the Council's Statement of Community Involvement
  - (ii) 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.

**2. INTRODUCTION:**

- (a) This Planning Probity Protocol (this Protocol) applies and focuses on the functions and responsibilities of the Joint Committee for determining planning applications within the TCBGC area (as referred to in 1(c) (ii) above).

- (b) Planning matters have a significant impact on our lives and the area where we live, work or play. Consequently, planning attracts a great deal of public and media interest. It is important that the system operates, and is seen to be operated, in an honest, open and transparent manner.
- (c) This Protocol describes how the Councils will deal with planning applications and other planning practices within the TCBGC area. It applies to all Councillors and Officers who are involved in the Development Management processes. It recognises the separate roles of Councillors and Officers.
- (d) Members of the Joint Committee are expected to observe the requirements and principles as set out in this Protocol at all times when involving themselves in the planning process. This includes when taking part in the decision making meetings of the Joint Committee in exercising the functions of the Planning Authorities or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings.
- (e) The purpose of the Development Management is to consider how development proposals (applications for planning permission) will be considered and determined. To be successful, the planning system relies on Councillors and Officers acting in a way which is fair and is clearly seen to be fair. This includes acting in accordance with planning law in all instances, and paying due regard to national and local policies, in addition to all other “material planning considerations”.
- (f) Each of the Councils forming the Joint Committee has their own locally adopted Members’ Code of Conduct, which although will be very similar and based upon the national Nolan Principles, are slightly different and therefore, each Member of the Joint Committee must observe the requirements of their own Council’s Code, giving particular attention to declarations of interest.
- (g) If a Councillor has any doubts about the application of this Protocol to their own circumstances they should seek advice early and prior to meetings from the relevant Monitoring Officer or one of their colleagues. Further guidance on the relationship between this Protocol and the Members’ Code of Conduct is set out in Section 4 below.
- (h) Executive functions, not connected with the DPD process or otherwise delegated to the Joint Committee, but nonetheless relate to the TCBGC remain with each Council to exercise, although the Councils continue to work in partnership. Each Council’s Cabinet is therefore represented on a separate TCBGC Member Group, which remains in place. However, its terms of reference provide separation between the executive strategic decisions and direction retained by each Council. Advice will be provided separately to Members of the TCBGC.

### 3. DEVELOPMENT PLAN:

- (a) To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see [section 70\(2\) of the Town and Country Planning Act 1990](#) and [section 38\(6\) of the Planning and Compulsory Purchase Act 2004](#) – these provisions also apply to appeals).
- (b) The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at [paragraph 14 of the Framework](#). If decision takers choose not to follow the National Planning Policy Framework, where it is a material consideration, clear and convincing reasons for doing so are needed.
- (c) Both Tendring and Colchester Councils have now adopted a common Section 1 of their Local Plan, which has the shared vision of sustainable development and allocation of TCBGC, which will be further defined through a joint Development Plan Document (DPD) providing detailed parameters and policies (as required within Section 1 – Policies SP8 & 9).
- (d) SP 8 for the Development & Delivery of a New Garden Community in North Essex, which states:

*“Tendring/Colchester Borders, a new garden community which will deliver between 2,200 and 2,500 homes, 7 hectares of employment land and provision for Gypsies and Travellers within the Plan period (as part of an expected overall total of between 7,000 and 9,000 homes and 25 hectares of employment land to be delivered beyond 2033).*

*The garden community will be holistically and comprehensively planned with a distinct identity that responds directly to its context and is of sufficient scale to incorporate a range of homes, employment, education & community facilities, green space and other uses to enable residents to meet the majority of their day-to-day needs, reducing the need for outward commuting. It will be comprehensively planned from the outset, with delivery phased to achieve the whole development, and will be underpinned by a comprehensive package of infrastructure. A Development Plan Document (DPD) will be prepared for the garden community, containing policies setting out how the new community will be designed, developed and delivered in phases, in accordance with the principles in paragraphs i-xiv below. **No planning consent for development forming part of the garden community will be granted until the DPD has been adopted”.***

- (e) Requirements of the Tendring/Colchester Borders Garden Community Development Plan Document (DPD) are set out in Policy SP 9 of the adopted Section 1 of the Local Plan and states:

*“The adoption of the DPD will be contingent on the completion of a Heritage Impact Assessment carried out in accordance with Historic England guidance. The Heritage Impact Assessment will assess the impact of proposed allocations upon the historic environment, inform the appropriate extent and capacity of the development and establish any mitigation measures necessary. The DPD will be produced in consultation with the local community and stakeholders and will include a concept plan showing the disposition and quantity of future land-uses, and give a three dimensional indication of the urban design and landscape parameters which will be incorporated into any future planning applications; together with a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure to ensure that the respective phases of the development do not come forward until the necessary infrastructure has been secured. The DPD and any application for planning permission for development forming part of the garden community must be consistent with the requirements set out in this policy. For the Plan period up to 2033, housing delivery from the garden community, irrespective of its actual location, will be distributed equally between Colchester Borough Council and Tendring District Council. If, after taking into account its share of delivery from the garden community, either of those authorities has a shortfall in delivery against the housing requirement for its area, it will need to make up the shortfall within its own area. It may not use the other authority’s share of delivery from the garden community to make up the shortfall.”*

- (f) Policy SP8 also states that “No planning consent for development forming part of the garden community will be granted until the DPD has been adopted.” It is likely that planning applications will be brought forward as the DPD is progressing through examination and could be reported to the Joint Committee for consideration. Such applications would need to be considered on their overall planning merits, which would include the wider policy framework set by the adopted Section 1, the status of the DPD in terms of its advancement through the plan making process, any emerging findings from its consideration via an examination in public, and any other material planning considerations.
- (g) Upon receipt of a planning application for any part(s) of TCBGC, Tendring District Council and Colchester Borough Council shall agree which Authority shall be the planning authority in respect of that application and it shall be processed in accordance with the relevant Authority’s procedures prior to determination by the Joint Committee.

#### 4. RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT

- (a) The rules contained in the Members' Code of Conduct must always be complied with first. This is both the rules on Disclosable Pecuniary Interests (DPs) and any other interests identified by your Authority, and the general rules and obligations giving effect to the Seven Principles of Public Life: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.
- (b) Do then apply the rules in this Protocol, which seek to explain and supplement the Members' Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this Protocol, you may:
- put the Councils at risk of proceedings on the legality of the related decision or maladministration;
  - undermine the integrity of such important decision making and reduce public trust and confidence;
  - put yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011, a complaint being made to the Police to consider criminal proceedings.

(c) **INTEGRITY – One of the Nolan Principle in Public Life**

*“Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. **They must declare and resolve any interests and relationships**”.*

(d) It is therefore advisable that Councillors:

- (i) Note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a Councillor may place additional limitations on you in representing the proposal in which you have a personal interest.
- (ii) Notify the relevant Monitoring Officer in writing where it is clear to you that you have a Disclosable Pecuniary Interest or other personal conflict of interest and note that:
- you should send the notification no later than submission of that application where you can;
  - the proposal will always be reported to the Joint Committee as a main item and not dealt with by officers under delegated powers;

- you must not get involved in the processing of the application; and
- it is advisable (but not mandatory) that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at the Joint Committee.

## 5. FETTERING DISCRETION IN THE PLANNING PROCESS

### **Bias, predetermination and predisposition:**

- (a) The law on **bias and predetermination** (which is a particular form of bias) is part of the general legal obligation on public authorities to act fairly. Decision makers are entitled to be **predisposed** to particular views.
- (b) However, **predetermination occurs where someone closes their mind to any other possibility beyond that predisposition**, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision. The leading case on local authority bias and predetermination acknowledges the difference between Judges sitting judicially and Councillors making decisions in a democratic environment. Given the role of Councillors, there must be 'clear pointers' before predetermination is established.
- (c) Councillors are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under Section 25(2) of the Localism Act 2011. The Section provides that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because:
- the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
  - the matter was relevant to the decision.

The section makes it clear that if a Councillor has given a view on an issue, this, considered in isolation, does not show that the Councillor has a closed mind on that issue. So, the mere fact that a Councillor has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that Councillor from being able to participate in discussion of that issue and to vote on it.

- (d) Decision-makers must not fetter their discretion by approaching the decision to determine a planning application with a closed mind. It is a legal requirement to approach the determination of a planning application with an open mind to prevent a legal challenge for pre-determination or bias (both being judicial review grounds in administrative law).



- (e) However, when Councillors come to make the decision, they
- are entitled to have and to express your own views on the matter, provided they are prepared to reconsider their position in the light of all the evidence and arguments;
  - must keep an open mind and hear all of the evidence before them, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
  - are not required to cast aside views on planning policy held when seeking election or otherwise acting as a Councillor, in giving fair consideration to points raised;
  - are only entitled to take account material considerations and must disregard considerations irrelevant to the question and legal context at hand; and
  - come to a decision after giving what they feel is the right weight to those material considerations.
- (f) If a Member of the Joint Committee is also a Parish Councillor affected by the TCBGC area and the application is considered at the Parish Council, as part of a consultation exercise, they are advised to remove themselves from the debate and vote at a local level to avoid allegations of pre-determination or bias at the Joint Committee stage.
- (g) Members wishing to take part in debate through a consultee body must:
- (i) consider if the proposal substantially affects the well-being or financial standing of the consultee body;
  - (ii) make it clear to the consultee body that:
    - your views are expressed on the limited information before you only;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Joint Committee and you hear all of the relevant information; and
    - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Joint Committee.
- (h) Members should take the opportunity to exercise their separate speaking rights as a Ward/Parish/Division Member where they have represented their views or those of local electors and fettered their discretion, but do not have a Disclosable Pecuniary Interest or other personal conflict of interest. Where you do:

- a. advise the Committee Officer or the Chair that you wish to speak in this capacity before commencement of the item and in accordance with the Public Speaking Rights;
- b. remove yourself from the seating area for Members of the Joint Committee for the duration of that item; and
- c. ensure that your actions are recorded within the minutes.

## **6. CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS**

- (a) Councillors should refer those who approach them for planning, procedural or technical advice to officers.
- (b) Councillors should only attend those meetings organised in accordance with this Protocol and must not attend private meetings with developers. The meeting will be conducted during office hours except in exceptional circumstances. It shall be arranged by Officers who shall accommodate, as far as reasonably practical, the availability of Councillors. However, availability shall not be a reason to delay the pre-application -discussion phase.
- (c) In the interests of transparency, consistency and fairness to all, the meetings shall follow a firm structure, as follows:
  - The Planning Officer will act as Chair for the meeting, introducing participants and setting out the purpose of the meeting to advise how it will be conducted;
  - The developer will present their proposal;
  - Councillors will then have the opportunity to ask questions and seek clarification. They may alert the developer to what they perceive as the likely views of their constituents, but care will need to be taken that their own personal views are not expressed;
  - The Chair will then thank the developer for attending and the developer shall leave the meeting;
  - Once the developer has left the meeting Councillors may advise Officers of any other matters they wish to be explored further and any elements which they feel would benefit from negotiation;
  - Officers will then offer a professional opinion to guide Councillors as to what negotiations would be reasonable and how the proposals align with policy; and
  - The Chair will then conclude the meeting.
- (d) The Chair will make it clear to the developer that the role of a Councillor is to listen to the discussion, identify issues that the developer will need to consider and to represent community interests but that it will not be possible for any Councillor to enter into negotiations or express a view on the proposal.

- (e) The Chair will record the meeting and take a note of all present, plus any issues identified. Officers will take appropriate follow up action. The note of the meeting will be placed on the public file at the earliest opportunity. In all cases, the involvement of Councillors will be recorded in any subsequent planning application, whether in any delegated report or in any Committee report.
- (f) Negotiations will take place after the meeting and will only be undertaken by Council Officers.
- (g) In the case of potentially contentious meetings, two or more Officers will attend. For certain major, complex proposals it may be necessary to have more than one Councillor meeting and, to this end, a schedule of involvement will be agreed with the developers by Officers.
- (h) Councillors should be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.
- (i) Councillors who are members of the Joint Committee and also a member of the TCBGC Member Group (whose purpose is provide political oversight of the delivery of the TCBGC) must ensure that their respective roles do not lead to a potential conflict of interest and in the case of a potential conflict of interest the Councillor must seek advice from their respective Monitoring Officer.

## **7. LOBBYING OF COUNCILLORS**

- (a) Councillors should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may subsequently prejudice their impartiality, and therefore their ability to participate in the Joint Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- (b) The overriding duty is to the whole of the Garden Community area and not just to the people in the Ward/Division and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- (c) Councillors and Officers must not accept any gifts or hospitality from any person involved in or affected by a planning proposal.
- (d) Any lobbying correspondence received can be read but should also be passed to the Planning Officer at the earliest opportunity.

- (e) The relevant Monitoring Officer should be informed where Councillors or Officers feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- (f) Councillors should make the necessary declarations that they have been lobbied on any particular matter at the Joint Committee when the application is being considered under the Declaration of Interests item of the agenda.
- (g) Unless Councillors have a Disclosable Pecuniary Interest or other interests, they will not have fettered their discretion or breached this Protocol through:
  - (i) Listening or receiving viewpoints from residents or other interested parties;
  - (ii) Making comments to residents, interested parties, other Councillors or appropriate officers (making clear that you must keep an open mind when it comes to making the decision)
  - (iii) Seeking information through appropriate channels; or
  - (iv) Being a vehicle for the expression of opinion of others in their role as a Ward/Division Councillor.

## **8. LOBBYING BY COUNCILLORS**

- (a) Councillors should not become a member of, lead or represent an organisation whose primary purpose is to lobby or promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Joint Committee when it comes to make its decision.
- (b) Councillors should not excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- (c) Councillors should not decide or discuss how to vote on any application at any political group meeting, or lobby any other Councillor to do so. Political Group Meetings should never indicate how Councillors should vote on a planning issue.

## **9. SITE VISITS/INSPECTIONS**

- (a) Members of the Joint Committee must attend site visits organised by the Councils, otherwise they will NOT be permitted to sit on the Joint Committee for those items.
- (b) The only people invited to the site visit are Councillors of the Joint Committee and Officers of the Councils. Whilst other parties may be

present, no one other than the Chair, Councillors of the Joint Committee and Officers may address the Committee on a site visit.

- (c) The applicant and any other parties who are present at the site visit as a result of publicity (e.g. Ward/Division Councillors, neighbours or objectors) will not be permitted to participate in the site visit, discussions or speak directly to Councillors of the Joint Committee
- (d) On assembling at the site, the Chair will advise those present of the purpose of the site visit and the procedure to be followed, so that all are aware that it is a fact finding exercise only and that no decision will be taken until the Joint Committee meeting.
- (e) Members of the Joint Committee must ensure that they treat the site visit only as an opportunity to seek information, to observe the site and ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- (f) Members of the Joint Committee must not express opinions or views.
- (g) The Joint Committee party will stay together as a group. No lobbying by applicants or objectors will be allowed at the site visit. If an applicant or objector(s) persist(s) in attempting to lobby, all Councillors and Officers will leave the site.
- (h) If access to private land is needed, Officers will get the agreement of the landowner before the visit.

## **10. PUBLIC SPEAKING AT MEETINGS**

- (a) The Joint committee has a Public Speaking Rights scheme, which forms part of its Standing Orders which should be followed and observed by all parties.
- (b) Councillors should not allow members of the public to communicate with you during the Joint Committee's proceedings (orally or in writing) other than through the Public Speaking Rights Scheme or through the Chairman, as this may give the appearance of bias.

## **11. OFFICERS**

- (a) For the purposes of the Joint Committee's consideration of the planning application, Officers will:
  - (i) give clear professional and impartial advice;
  - (ii) make sure that all the information needed for a decision to be made is provided;

- (iii) put the application in context, in terms of the Development Plan and all other relevant material planning considerations;
  - (iv) give a balanced, clear and accurate written analysis of the issues, acknowledging the relative merits of alternative opinions or options that may exist;
  - (v) wherever possible, distinguish matters of fact or law from their own professional opinions and/or judgements; and
  - (vi) give a clear recommendation, with reasons.
- (b) The exception to simply providing recommendations is if they have been given further powers under the appropriate Council's Scheme of Delegation to Officers, or when the Joint Committee gives specific delegated authority.
- (c) Officers are responsible for carrying out their duties in compliance with the Royal Town Planning Institute Code of Conduct, in particular that Officers must not make or subscribe to any statements which go against their own professional standards. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Joint Committee or its Members.
- (d) Members of the Joint Committee must not put pressure on officers to put forward a particular recommendation. However, this does not prevent Members from asking questions or submitting views to the Planning Officer, which may be incorporated into any committee report.

## **12. REPORTS & DECISION MAKING**

### **Members of the Joint Committee should:**

- (a) Come to meetings with an open mind and demonstrate that they are open-minded.
- (b) Comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Section 1 of the Local Plan and the Development Plan Document unless material considerations indicate otherwise.
- (c) Come to a decision only after due consideration of all of the information reasonably required upon which to base a decision. If it is felt there is insufficient time to digest new information or that there is simply insufficient information before them, request that further information. If necessary, defer or refuse.
- (d) Should not vote or take part in the meeting's discussion on a proposal unless they have been present at the entire debate, including the Officer's introduction to the matter.

- (e) Ensure the reasons for the Joint Committee's decision to defer any proposal are fully provided and recorded e.g. seeking further information, what and why?
- (f) Make sure that if proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan, the planning reasons leading to this conclusion/decision are clearly identified. These reasons must be given prior to the vote and be recorded. Be aware the Joint Committee may have to justify the resulting decision by giving evidence in the event of any challenge.

### **13. TRAINING**

- (a) All Councillors attending pre-application discussions must have first attended a training session on conduct at pre-application discussions. These training sessions will be organised by the respective Councils' Planning Service on a regular basis in order to ensure that the integrity of the Councillor's decision making role is maintained. No Councillor engaging in pre-application discussions should go more than 24 months without at least attending a "refreshment training session".
- (b) All Councillors must receive training in planning procedures. The subjects covered by the training will be decided by Officers in consultation with Councillors. A Councillor who does not undertake the training for Councillors on ***Development Control (Determining Planning Applications)*** will be disqualified from the Joint Committee and from being a substitute for Councillors of the Committee who are unable to attend. They will also be unable to participate in any pre-application or planning application meetings that include the developer, applicant(s) or their agent(s).
- (c) A programme of training will be available each year, covering issues of current importance as well as updating knowledge. From time to time, specialist training will be provided to cover particular topics or to look at matters in greater depth.

### **14. REVIEW OF THIS PROTOCOL**

This Protocol will be reviewed annually by the Joint Committee.

*To be considered and approved by the  
Tendring Colchester Garden Communities Joint Committee  
18 July 2022*