

# Public Document Pack

Tendring/Colchester Borders Garden  
Community Joint Committee

5 September 2024

**MINUTES OF THE MEETING OF THE TENDRING/COLCHESTER BORDERS  
GARDEN COMMUNITY JOINT COMMITTEE,  
HELD ON THURSDAY, 5TH SEPTEMBER, 2024 AT 6.00 PM  
IN THE ROMAN LOUNGE AT COLCHESTER RUGBY CLUB, RAVEN PARK,  
CUCKOO FARM WAY, COLCHESTER, CO4 5YX**

<b>Present:</b>	Councillors David King (CCC) (Chairman), Lee Scott (ECC) (Vice-Chairman), Andy Baker (TDC), Mark Cossens (TDC), Andrea Luxford-Vaughan (CCC), William Sunnucks (CCC) and Lesley Wagland (ECC)
<b>Also Present:</b>	Councillors Mark Cory (ECC & CCC), Zoe Fairley (TDC), Gary Scott (TDC) and Ann Wiggins (TDC)
<b>In Attendance:</b>	Gary Guiver (Director (Planning) - TDC), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer - TDC), Andrew Weavers (Head of Governance & Monitoring Officer - CCC), Jonathan Schifferes (Head of Housing Growth and Garden Communities - TDC), Amy Lester (Garden Community Planning Manager - TDC), Christopher Downes (Garden Communities Manager - TDC) and Ian Ford (Committee Services Manager - TDC)
<b>Also in Attendance:</b>	Ashley Heller (Head of Transport for Future Communities - ECC), William Lodge (Communications Manager - TDC), Paul Wilkinson (Principal Transportation and Infrastructure Planner (New Communities) - ECC) and Keith Durran (Committee Services Officer - TDC)

## **1. ELECTION OF THE CHAIRMAN OF THE JOINT COMMITTEE**

Councillor Andy Baker referred to the fact that two of Tendring District Council's standing members of this Joint Committee had been unable to attend this meeting.

It was thereupon moved by Councillor Baker, seconded by Councillor Cossens and:-

**RESOLVED** that Councillor David King be re-elected the Chairman of the Joint Committee until a future meeting of the Joint Committee.

## **2. ELECTION OF THE DEPUTY CHAIRMAN OF THE JOINT COMMITTEE**

It was moved by Councillor Baker, seconded by Councillor Cossens and:-

**RESOLVED** that Councillor Lee Scott be elected the Deputy Chairman of the Joint Committee until a future meeting of the Joint Committee.

## **3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

An apology for absence was submitted on behalf of Councillor Julie Young (CCC). CCC's Designated Substitute Member (Councillor William Sunnucks) attended in her stead.

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An apology for absence was also submitted on behalf of Councillor Carlo Guglielmi (TDC). TDC's Designated Substitute Member (Councillor Andy Baker) attended in his stead.

In addition, it was reported that Councillor Mike Bush (TDC) was not in attendance at the meeting.

#### **4. MINUTES OF THE PREVIOUS MEETING OF THE JOINT COMMITTEE**

It was moved by Councillor Baker, seconded by Councillor Luxford-Vaughan and:-

**RESOLVED** that the Minutes of the meeting of the Joint Committee held on Monday 9th October 2023 be approved as a correct record and be signed by the Chairman.

#### **5. DECLARATIONS OF INTEREST**

There were no Declarations of Interest made by Members of the Joint Committee on this occasion.

#### **6. PUBLIC SPEAKING**

The Public Speaking Scheme for the Joint Committee gave the opportunity for members of the public and other interested parties/stakeholders to speak to the Joint Committee on any specific agenda item to be considered at this meeting.

The Chairman invited the following public speakers to come to the table in turn to speak. Their comments are in precis.

Town Councillor Rik Andrew (Chair of the Wivenhoe Travel and Transport Sub-Committee)

- *Referred to the recent press release from the Joint Committee which claimed that the new link road would "improve access and help traffic congestion on local roads".*
- *He understood that construction traffic was supposed to use the A120 and not the A133. Asked how could a £60million road that ended in a cul-de-sac in a farmer's field could possibly alleviate congestion.*
- *Essex Highways previous forecast was that traffic flows on the link road would be 50-50 i.e. the A120 would take 50% of the traffic. However, now all of the traffic would have to use the 'chronically' congested A133 for the foreseeable future.*
- *Highways England's 'Statement of Common Ground' called for the Modal Shift Forecast to be re-assessed based (a) on what has actually been achieved elsewhere and not on unrealistic Active Travel aspirations; and (b) that phase two of the link road is unlikely to happen before 2041. He believed that this had not happened.*
- *By 2041, the Garden Community would have 3,750 homes, about 9,000 population, which would be bigger than Wivenhoe and most of whom would have to commute to work or college et cetera beyond the GC. The 'trigger point' analysis concluded that phase two of the link road was not needed until 4,000 homes had been built. That assumes that the DPD's aspiration modal shift target had been met which Highways England stated was highly unlikely to occur.*

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- *Section 5 of that trigger point analysis admitted that at 2,000 homes the impact on traffic queues was likely to be quite severe. Surely therefore that should be the trigger point for phase two.*
  - *To accommodate that extra traffic without creating extra congestion would require a significant proportion of existing Tendring commuters to switch to other modes of transport. But the RTS would not benefit the residents of Brightlingsea, Clacton, et cetera. No proposals for more trains or a new train station such as Cambridge North or Ebbsfleet. No other proposals exist to stimulate modal shift.*
  - *Wivenhoe is the same distance from Colchester as the GC but nobody runs or walks to Colchester and back for work every day. Active Travel effectively relies therefore on a massive increase in cycling rates from current 2% modal share. This is unrealistic. Plenty of Buses available but they run 80% empty so again unrealistic assumptions for modal shift to RTS.*
  - *Personally not against GC but wanted honest assessment of traffic impact and much more effort to mitigate.*

The Chairman of the Joint Committee (Councillor King) responded to Town Councillor Andrew's statement as follows:-

- *Shared concern. Did not want to increase congestion any more than was avoidable. Second phase of the link road had to be delivered as soon as practicable but accepted the debate around that. Would have to be based on solid evidence and modelling. Past modelling was not accepted as the way forward.*

Jonathan Schifferes, Head of Housing Growth and Garden Communities (Essex County Council) also responded to Town Councillor Andrew's statement as follows:-

- *When planning application for the GC comes forward to the Joint Committee it would need to be accompanied by an Environmental Impact Assessment and a Transport Assessment that fully modelled the applicant's proposals and the work that they had done with the Highways Authority and the planning authority to as accurately as possible the impact on various travel modes. That work had not yet been carried out. Several pieces of work had been commissioned for various purposes (including for the DPD) that had modelled the progression of the GC to its full 7,500 homes provision.*
- *Echoed the sentiment of the Chairman's remarks that Section 1 of the joint Local Plan (TDC and CCC) stated that full link road delivery is secured by funding and planning permission before GC is approved. That is reinforced within the DPD. Would be the basis on which the Joint Committee would need to determine the planning application.*
- *Modal share aspirations for the GC are ambitious. Highways England do not have a formal objection to the DPD or the full link road which has planning permission.*
- *Interventions that support the modal shift include package of interventions that existed and were funded by Homes England and Homes Infrastructure Fund. Park and Choose facility on the A133 was a formal requirement of the DPD and would come forward alongside the planning application. That was the main intervention to support the modal shift for existing commuters.*
- *Wider aspiration to deliver the link road as soon as possible. Number of traffic modelling exercises that had taken place and would need to take place. There are a number of future modelling years for which a Colchester traffic model exists. One of those years is 2041. Tests would be run against that model with scenarios that*

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*showed the full phase two of the link road being built or not built at various points in the future – 2031, 2036 and 2041 – the existing modelling parameters that can be used. Would expect that to be tested but was not a target date. Normal statutory requirements would apply for how the Joint Committee determined the application e.g. the NPPF had a severe impact test on the existing network. That would be a threshold that the Joint Committee would have to be satisfied with the evidence before it and could ask for modelling for various years to determine that had been met or not met.*

Professor Anthony Vickers (Crockleford & Elmstead Action Group (CEAG) spokesperson)

- *Referred to statement within the documentation that “none of the modifications suggested by the Council... were significant in that they did not seek to change the substance or intent of the DPD policies.” During the Hearings in May, he had pointed out that the change in the wording to an aspiration of 50% green space from an implication that 50% would be green space is significant and if the Joint Committee did not think so then residents would have no faith in the Joint Committee’s commitment. It would no longer be a garden community project but instead a massive housing development.*
- *Referred to Modification MM7 – “Depending on the outcomes of local junction modelling along Bromley Road into Colchester, some parcels of development within the Crockleford Neighbourhood may need to access to the Link Road instead of Bromley Road. Suggested wording to reflect this flexibility.” For Crockleford Heath residents this was a worrying development as it suggested that parts of Crockleford Heath would no longer be within Crockleford Heath. You could not be connected to the link and not be part of the link road. If some parts of Crockleford Heath are then to be connected then they would not be part of Crockleford Heath. Pointed out that within the Government documentation it stated that existing settlements had to be respected. This therefore was a complete disrespect of the residents of Crockleford Heath.*
- *Referred to MM8 – “Acknowledging existing, enhanced and other public transport can support homes as well as the RTS removes pre-judging of phasing at Crockleford.” Was this to be interpreted as giving a ‘green light’ to developers to carve away at parts of Crockleford Heath and bring forward Crockleford Heath to Phase One from Phase Three. Crockleford Heath was in Phase Three originally. Concerned that Crockleford Heath was being moved to the beginning because the developer could get access to Bromley Road and the link road is a cul-de-sac.*
- *Referred to MM36 – “Creation of the Rapid Transit System to enable a fast rapid commute for residents to and from all neighbourhoods within the Garden Community...” Noted the change of wording to ‘fast’, which was no more defined than ‘rapid’. Believed ‘fast’ was a demotion from ‘rapid’. What did this mean for the ‘Rapid’ Transit System?*

Amy Lester, the Garden Community Planning Manager (Tendring District Council) responded to the points made by Professor Vickers along the following lines:-

- *In regard to the Modifications, everyone would have the opportunity to comment on any or all of them through the imminent formal public consultation. Those comments would be considered by the Planning Inspector before he issued his recommendation to the Councils on the soundness of the DPD.*

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- *In regard to MM7 – clarified that it was to allow a greater degree of flexibility to allow access to future particular parcels from either the link road or Bromley Road. It did not allow a ‘watering down’ of the principles of ‘filtered permeability’ meaning that you could drive to the link road from Bromley Road. That restriction would always remain. Would remain subject to future modelling and master planning and design work that would be put forward as part of the planning application.*
  - *In regard to MM8 – clarified that this would not remove any requirement for a phasing plan to be submitted at the point of the planning application. Phasing within the DPD was based on the strategic master plan work that the Councils had produced which had been ‘indicative only’. A phasing plan would still need to come forward and be considered as part of a future planning application.*
  - *In regard to MM36 – clarified that this change had been put forward to ensure consistency with the wording within the DPD (GC Policy 1).*

The Chairman of the Joint Committee (Councillor King) also responded to Professor Vickers’ statement as follows:-

- *Quite a lot had been published on the RTS and its hopes and aspirations as a lot of that had yet to be tied down and that had been shared. It was important that the principle was recognised that the RTS funding had to be spent well and the outcome had to be public transport that was a ‘cut above’ the existing provision in accessibility, comfort, reliability and pace.*

Russ Edwards (Project Director for TCBGC – Latimer by Clarion Housing Group)

- *Congratulated Members and Officers following the Examination-in-Public of the DPD earlier this year which was another major milestone for the project.*
- *Encouraged to see that the Schedule of Modifications that the Inspector had asked to be the subject of public consultation were, for the most part, based on the Statements of Common Ground prepared by Officers and stakeholders.*
- *Latimer remained extremely supportive of the DPD and the suggested modifications. Its consultant team continued to work on the master plan proposals that would form part of an outline planning application that would be compliant with the policy.*
- *Working to a revised planning submission target of the second quarter in 2025 and continued to engage pro-actively with Officers through pre-application engagement.*
- *Further public consultation was planned to support the application at the end of this year and early part of next year.*
- *Estates Management and Stewardship Strategy – The Councils had commissioned a ‘Pathway to Stewardship Strategy’ since the last meeting of the Joint Committee. Latimer was extremely supportive of that work and had engaged collaboratively with the Councils and their consultant CSS. Looked forward to building on that work was completed as part of the application documents to be submitted next year.*
- *Fantastic to see the project mentioned positively in both local and national press with coverage of ECC entering into a contract for phase one of the A120-A133 link road and the new community being identified as a project the new Government is interested in accelerating through the New Homes Accelerator Programme.*
- *Looked forward to discussions with all parties including MHCLG and Homes England over the coming months to work out how best to support the project moving forward.*
- *Lastly, hoped that Members had had the chance to visit the Beth Chatto led ‘Meanwhile Garden’ project established next to FirstSite in Colchester where*

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*Latimer's Essex young designers had both designed and helped to make the benches and seating.*

The Chairman of the Joint Committee (Councillor King) responded to Russ Edwards; statement as follows:-

- *Welcomed the positive comments and the continued positive and collaborative approach to working between Latimer and the Officers.*
- *Knew that Latimer would be listening carefully to all of the comments made at this meeting and that they were fully aware of the vital importance attached to securing the link road.*

Manda O'Connell (Chair, TCBGC Community Liaison Group)

- *CLG supported report A.2 which was the delegation to Officers in respect of EIA scoping requests. The reasons were:-*
  - *it would be quicker and more direct which was useful in particular for the Colchester / Tendring Borders Garden Community development which was subject to strict time constraints due to the nature of the funding;*
  - *it allowed for direct engagement of local stakeholders and expert bodies with planners in response to the scoping consultation for example the CLG (local people with local knowledge including some experts in their field including groundwork and transport who had scoping out objections to the following:*
    - (i) *Materials and waste which was currently scoped out with potential damage to aquifers and natural drainage areas – removed materials are replaced with backfill construction materials – as has been seen elsewhere within the county with damaging results and created numerous problems.*
    - (ii) *Flood risk and drainage should be scoped in given this year had seen standing water in the Crockleford area more than before and this would be worsened by the development unless specifically mitigated against by being coped in the EIA.*
    - (iii) *Sewerage and waste water should be most definitely scoped in as the current sewerage works for Colchester East could not cope with demand and use with considerable effluent released into the tidal River Colne when use topped capacity.*

*Those grounds it was hoped would provide grounds to the planners, based on local knowledge to require those additional matters to be scoped in rather than out.*

- *The proposed delegation would not disallow the Joint Committee's authority and decision making as it would have the final say on the suitability and acceptability of the scope of the final EIA submitted by the developers.*

The Chairman of the Joint Committee (Councillor King) responded to Manda O'Connell's statement as follows:-

- *thanked the CLG for its work and commitment and welcomed and supported the comments made especially in regard to making practical use of local knowledge.*

Parish Councillor Adam Gladwin (Chairman of Elmstead Parish Council)

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- *reiterated comments made at previous meetings about the need to give this development a proper name. Considered it a place making failure. Residents calling it the 'New Town' which risked confusion with Colchester New Town.*
  - *noted that last Joint Committee meeting was eleven months ago and expressed concern that his Parish Council now had only five minutes to engage.*
  - *Queried how democratic and transparent that was. Felt that a lot of decisions in the meantime had been made in private and therefore had lacked proper public scrutiny. Had been on the receiving end of residents' concerns. Was getting harder to defend this planning approach. Needed more transparency not less.*
  - *Concerned that proposed delegations to Officers in report A.2 would only move further decision making behind closed doors. Appreciated that in the grand scheme of things those decisions might seem inconsequential but by delegating them to Officers it would prevent the residents would be most affected such as those represented by CEAG coming before the Joint Committee and saying their piece with their local knowledge when detailed planning matters were being decided.*
  - *Elmstead PC had met last month with the appointed GC place making consultant. He had been surprised by the strength of negative feeling surrounding the project.*
  - *Worried about disconnect between CLG and EPC on public feedback.*
  - *Not helped by disappointing start to the summer when the first material works to the project, supposedly focused on sustainability, cut down hundreds of hedgerow trees in bird nesting season only for no more work to have happened in the months since. Was correct wildlife assessment done beforehand? Why undertaken then and not now?*
  - *Elmstead residents were starting to feel the impact of the development as work started. Disruption caused by RTS works and soon the link road works was just the beginning. Residents already complaining about delays and traffic problems. Local back roads already seeing more traffic. Did not believe that Traffic Assessment correctly considered the impact of Clingoe Hill works especially when combined with other RTS and link road works. New 'rat runs' being formed. Dangerous driving on country lanes. Residents now looking at travelling to Ipswich and Clacton rather than Colchester.*
  - *Referred to misinformation about the link road – needed confirmation on who was building phase two of the link road. What was the cost?*

The Chairman of the Joint Committee (Councillor King) responded to Parish Councillor Gladwin's statement as follows:-

- *Was aware of the issues at Clingoe Hill and that the works there were making life more difficult for many. Had to trust that there would be a benefit once finished. Disruption an inevitability but it needed to be minimised.*
- *ECC Officers were taking on board all of the feedback that they were receiving from many sources.*

Jonathan Schifferes, Head of Housing Growth and Garden Communities (Essex County Council) also responded to Parish Councillor Gladwin's statement as follows:-

- *Enabling works for Section C of the RTS were on-site now between Greenstead Roundabout and the Knowledge Gateway junction were undertaken properly. Link Road Phase One enabling works had taken place on the A133 as well. Timing of those works was done to avoid the peak bird nesting season. Where the clearance of*

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- vegetation did have to take place an Ecologist was on-site at that time to ensure that those works did not disrupt nesting birds.*
- *Octavius was the contractor undertaking the construction of Phase One of the link road.*
  - *Works at both sites would need sequencing and phasing and collaboration with the National Highways works on the A120 as well. Conversations were ongoing to avoid, wherever possible, conflicts between those works and to minimise the overall impact.*
  - *Concerned if any of the diversions and traffic management arrangements (TMA) were causing issues of safety. That was the number one consideration at all times. Changes could be made if needed to the TMAs.*
  - *In answer to the question: Who is building the second phase of the link road? – the obligation was on the developer (Latimer) to fund the delivery of the link road as defined in the MoU between the Councils and Latimer which was part of the evidence base underpinning the DPD. Assumption also within the Infrastructure Phasing Plan and the Viability Assessment that that was a cost that fell to Latimer. The cost of that was also part of that same conversation. DPD evidence was the best place to look for the best estimates that the Councils had. Figure there was £21.5million for phase two of the link road. However, it was not assumed that by the time that the link road was constructed following the agreed plan for the build out of the GC that that would be the actual price that Latimer would have to meet.*
  - *There were ongoing conversations with Government that sought further central funding to help provide a high quality GC. Not producing a continuous stream of updated cost estimates for phase two of the link road. The obligation was on Latimer or any other applicant to build the GC to demonstrate that they had the commitment and the funding at the point of the application to provide the link road in its entirety. How that was contracted out was open to discussion and agreement at a later date.*

At that point in the proceedings and at the behest of the Chairman, Andrew Weavers (Head of Governance & Monitoring Officer) (Colchester City Council), read out the following written statement that had been submitted by the Mayor of Wivenhoe (Town Councillor Denise Burke):-

*“As Mayor of Wivenhoe, I would like to share my concerns regarding the proposed Tendring Garden Community (TGC).*

*Firstly, there needs to be a reality check as work begins on what has been dubbed “the road to nowhere”.*

*The work began on the link for the proposed TGC this week, the start of the new school term, which will see over 7,500 homes built. Little notice was given for the works, diversion signs are totally inadequate and overnight closures are ad hoc, not adhering to the closure and opening times advertised. The alternative routes are congested and already heavy with lorries on these narrow roads.*

*In the Trigger Point Analysis of November 2023 it identified a trigger point when a full link road is needed. It shows that ‘journey time and queuing impacts on the A133 will worsen as development increases, with ‘a step change at 4,000 homes.’*

*It also concedes that ‘the network is already heavily congested’. However, this summary is highly deceptive, because the modelling for the 4,000 homes trigger, reflects eastbound queues only. The westbound queue commences earlier, at 1,000 homes, so,*



*we may get a link road in 20 years' time assuming their quite extreme predictions on model shift will work.*

*What is interesting and frustrating is ECC has and remains very reluctant to share the document to a wider audience."*

*They add in the Environmental Impact Assessment Scoping Report produced by the developer for the new town 'it is assumed that Phase 2 of the Link Road is constructed at the back end of the emerging Local Plan Review period' therefore, the 'assessment year is 2041.*

*We are supposedly reassured that in 2041, the RTS and Park and Choose will be operational, although details of service routing, frequency and fleet are yet to be developed.*

*However, they warned the plan remains fundamentally flawed with the timetable for the vital infrastructure required for a development of this scale still no agreed or announced. It leaves leaving scheme in real danger of creating a huge need for healthcare, schooling and other amenities which at present there is no compulsion on the developer or local authorities to deliver.*

*There are lots of unresolved problems with the plan that can no longer be passed off as having garden community principles. In addition, the employment area can't come forward because Latimer doesn't own the land and the link road doesn't link to it, the timescale for delivery of schools and early year provision has been watered down and so the infrastructure will be constantly trying to catch up with house delivery as opposed to the infrastructure first principle we were promised. There is currently no health centre planned for the site. As someone who works in the early years & childcare and elder care industry I have to ask why the proposed plan does not reflect 'cradle to grave' solutions that will be needed early on as neighbouring towns and parishes have insufficient facilities, indeed in Wivenhoe demand already exceeds supply.*

*The heritage impact assessment was done after the master planning, so heritage elements have just been ignored. The promised green buffers which are so vital to ensure environmental requirements can be met can be filled by car parks, solar farms, cemeteries, and allotments. The total number of homes has gone up from 7,500 total with an additional 2,700 student beds on site. There is still no stewardship model, so we don't know if there will be a boundary change and Latimer wants a land or service charge, which are very unpopular with residents.*

*In summary, although of course the most unacceptable element is the lack of a link road or credible rapid transport system. We know next to nothing about the RTS, but the link road delivery is hampered by significant obstacles such as the fact ECC still don't own the land to build phase two.*

*People should be told National Highways have outstanding and unresolved issues with traffic modelling and design. The announcement of work might be seen as a positive, but the fact remains as it stands there is no money left to build phase 2, and there is no legally binding way to get the developer to contribute.*

*At present all we are seeing is the start of construction for a road to nowhere. Those charged with delivery still have no idea how or when the multitude of issues which currently make this scheme an expensive and embarrassing white elephant will be addressed and workable and practicable solutions found."*

Jonathan Schifferes, Head of Housing Growth and Garden Communities (Essex County Council) responded to the Mayor of Wivenhoe's written statement as follows:-

- *Reiterated that a response to that statement from the three Councils had been issued by way of a press release. That response was as follows (editors notes excluded):-*

*"There are a number of inaccuracies and misunderstandings identified in the press release by Wivenhoe Town Council including the position of National Highways and inaccurate assertions that statutory processes for technical work and approvals have not been followed as well as the information not accurately reflecting the technical work that has been done to date.*

*The three partner Councils are committed to ensuring that agreed infrastructure is delivered as early as feasibly possible at the Tendring / Colchester Borders Garden Community and will be requiring such commitments from developers when determining future planning applications.*

*A Joint Committee of the three Councils has been established early in the development process to ensure comprehensive public oversight of the planning process. The Councils were successful in attracting almost £100million of Government funding for early delivery of new transport infrastructure to support much needed new housing at the Garden Community and this is in the form of the new A1331 and the new Colchester Rapid Transit system.*

*Adopted planning policy clearly requires that the funding for the full A1331 linking the A133 and the A120 is in place before planning approval is granted for the Garden Community. The Development Plan Document also sets out a requirement for the Garden Community to demonstrate a full funding commitment to complete the A1331.*

*The Councils are totally committed to securing the full funding for the delivery of the A1331 which is fundamental to planned housing growth in Colchester and Tendring. The Councils are therefore working with the new Government to explore funding opportunities to complete the A1331. We appreciate that while there are understandable concerns for the impact of new housing on Wivenhoe and other surrounding areas the planning and highways authorities have put in place strong safeguards to ensure the growth is well managed, sustainable and enhances the local community.*

*We are keen to work with the local parish councils as the schemes continue to progress through the planning system."*

The Chairman of the Joint Committee (Councillor King) also responded to the Mayor of Wivenhoe's statement as follows:-

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- *Addressed concerns about promises not being delivered. Was understandable and acknowledged it was the Joint Committee's collective responsibility to hold the three Councils and Latimer to account. Need to make the promises demonstrable.*
  - *Any 'misreading' was responsibility of the Joint Committee. Needed to work constantly to be really clear in demonstrating what was factual, what was a legitimate question, what was myth or merely rumour.*

Councillor Wagland then responded as follows:-

- *On the subject of openness, stated that firstly a number if not the majority of the points made by speakers were addressed in several respects in the Minutes of our previous meeting. Urged the public to read them.*
- *Secondly, also urged the public to read the Editors Notes in the Councils' statement which provided further comments in relation to many of the individual points raised.*

Councillor Luxford-Vaughan raised the point that National Highways had, in fact, objected to the DPD otherwise they would not have been a participant at the Examination-in-Public. Though there was a statement of common ground with National Highways there were unresolved issues. The Councils' statement was therefore in error on that point.

Amy Lester, the Garden Community Planning Manager (Tendring District Council) responded to Councillor Luxford-Vaughan. The three Councils had engaged with National Highways throughout every stage of the process. The statement of common ground for the DPD Examination-in-Public had at the end of it a number of outstanding issues. However, they related to the future planning application and the modelling work that would be required to come forward as part of that. There was quite an understandable areas of concern that had been recorded as still needing to be resolved. However, the principle of the GC and the DPD and the policies contained within it had not been objected to by National Highways (Highways England).

Jonathan Schifferes, Head of Housing Growth and Garden Communities (Essex County Council) further responded by stating that National Highways had lodged a 'holding' objection in order to participate in the Inquiry. He then quoted from the published statement of common ground between National Highways and the Councils (Section 3):-

*"In summary, the Councils and National Highways agree that the DPD transport evidence base which uses the Colchester Transport Model developed by Essex County Council provides a sound, strategic transport baseline for future development of the Garden Community. They agree that outstanding matters raised in the National Highways technical notes (7, 8 and 9) and the responses by the Councils are deemed to be acceptable at this stage of the DPD. They acknowledged the need to continue to work collaboratively and with the site developers to deliver the full range of suitable highway transportation solutions for the Garden Community."*

In conclusion under "Unresolved Issues" the statement said: *"Within this statement of common ground there are no unresolved issues or area of uncommon ground for the purposes of the DPD. There are several notable issues that need to be resolved prior to the planning application stage."*

Councillor Mark Cory (Essex County Council and Colchester City Council)

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- *Supported the comments made by Parish Councillor Gladwin and Town Councillor Burke about the traffic situation. As the Division Member most affected he was dealing with County Highways on the lack of diversion signs at the commencement of the works, the number of accidents that had already resulted and the map which had been produced which was inadequate.*
  - *Referred to recent traffic modelling by ECC which showed that eastbound congestion at Clingoe Hill would become a significant problem after 1,000 new homes. Those homes were going to come from Tendring itself and the GC. Queried how given that point, and the initial phasing evidence that we were now talking about 2041 as earliest start to complete the link road with completion by 2051.*
  - *GC principles demand a full link road but facts now demand it in full from the start.*
  - *Asked whether it was the case that nothing from the leftover HIF funding could be spent towards the construction costs post 2026.*
  - *Asked what were the phase two cost? Without updated phase two costs how would that affect the Councils own viability evidence? How could Councils state it would 'stack up' for the planning application minus the associated costs?*
  - *Asked what capital resources were set aside by Latimer for building phase two. How could the Councils be sure that it was being prepared for and would be done and delivery ensured.*
  - *Given that traffic modelling showed traffic increasing, the pains of the project so far and the bad 'press' and the speed of the supposedly 'rapid' transit system being 'watered down' to fast how do the Councils expect the modal shift targets to be met. It looked less than likely that they would be achieved. What was there in policy terms to ensure that the modal shift happened and if it did not happen was there a mechanism to halt building of further homes.*
  - *In respect of item A.2, very much supported the comments made by Parish Councillor Gladwin about a vacuum of decisions that the public saw made by this Joint Committee. Delegation of further responsibility would be a 'misstep' at this point in time. The Joint Committee was a delegated committee from the three Councils with powers delegated to the small number of Members appointed to it. Delegating further decisions away would be less than helpful in ensuring openness and transparency.*

The Chairman of the Joint Committee (Councillor King) also responded to Councillor Cory's statement as follows:-

- *Would follow 'good practice' in the proposed delegation to Officers. Same practice was followed at Colchester City Council.*
- *No vacuum in decision making. Had been a long period when the 'ball' had sat with the DPD Inspector. Momentum of the GC project currently in the hands of others.*
- *Acknowledged the challenge of transparency.*
- *All of his five questions had been touched upon and answered earlier on in this meeting. Impracticable to ask Latimer about their capital resources at this meeting.*

Jonathan Schifferes, Head of Housing Growth and Garden Communities (Essex County Council) also responded to Councillor Cory's statement as follows:-

- *Not the case that the Councils had a report that said 2041 was the earliest date that phase two of the link road would be delivered. There were modelling studies that demonstrated different scenarios which had been commissioned to inform other public decision making processes namely the CPO and the SRO. That was not the*

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*basis on which the Joint Committee would determine an application nor determine what acceptable impacts of that application would be in environmental terms or in highways terms and in accordance with statutory planning processes.*

- *Confirmed that, under the contract, HIF could not be used beyond March 2026.*
- *Viability of the Phase Two costs would be scrutinised by the Joint Committee at the point of the submission of the planning application and that viability assessment would need to include the major infrastructure costs.*
- *Not appropriate to ask the applicant when determining an application whether they had the money to build it.*
- *Change of 'rapid' to 'fast' merely a case of semantics on the Inspector's behalf.*
- *Joint Committee could introduce 'development caps' if it felt that controls were required on the 'build out' or level of traffic generated as part of dealing with modal shift.*

## **7. REPORT A.1 - EXAMINATION IN PUBLIC: INSPECTOR MODIFICATIONS FOR CONSULTATION**

The Joint Committee considered a detailed report (A.1) which advised it of the modifications to the Development Plan Document (DPD) for the Garden Community that the Planning Inspector now required the Councils to publish for consultation as part of the process of independent examination.

It was reported that, following the public hearings held in May 2024, the Planning Inspector (Mr. Graham Wyatt) had subsequently issued his own 'Schedule of Modifications', as appended to the report (Appendix 1), and had instructed the Councils to proceed to consultation. They did not vary significantly from the Councils' Suggested Modifications that had been discussed at the hearings.

The Inspector had made four (4) changes to the Councils' 'Schedule of Suggested Modifications – Post Hearing Update'. Those were to GC Policy 2 'Nature', GC Policy 8 'Sustainable Infrastructure' and GC Policy 9 'Infrastructure Delivery, Impact Mitigation and Monitoring'. Those changes were as follows:-

### GC Policy 2 – Nature

- **MM90 - Part D (to become Part E) 'Biodiversity Net Gain'**

Inspector's Modification:

Remove reference to ambition to achieve BNG of 15%, as such remove last sentence of first point of Part D on page 40 of the DPD as follows:

~~As such an ambition is to achieve BNG of 15% on average across the whole masterplan.~~

Inspector's Reason:

The minimum requirement of 10% will be met across the masterplan as required by Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

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GC Policy 8 - Sustainable Infrastructure

- **MM71 - Part A 'Net Zero Carbon'**

Inspector's Modification:

The Inspector has changed the timeframe for an agreed strategy to achieve net zero in acceptable circumstances from '*within a reasonable timeframe*' to '*within five years of occupation*'. As such Part A on page 117 of the DPD be amended as follows:

All buildings ~~must~~ *shall* be net zero in operation at occupation or, in exceptional circumstances, have an agreed strategy to achieve net zero within five years of occupation, and achieve net zero operational energy balance onsite across the Garden Community.

Inspector's Reason:

At the request of Latimer and as discussed on Day 1 of the hearing sessions under Main Matter 8.

- **MM72 - Part A 'Net Zero Carbon'**

Modification **not** agreed by the Inspector:

The Councils had, through the 'Schedule of Suggested Modifications' and their hearing statement for Main Matter 8, put forward for consideration that the space heating, energy consumption and renewable energy generation standards under Part A of GC Policy 8 be updated to reflect the findings of the most up-to-date technical evidence base and ensure alignment with the Essex Design Guide. The suggested modification was discussed on Day 1 of the hearing sessions under Main Matter 8.

Inspector's Reason:

The Inspector has **not agreed** the Councils suggested modification as the Essex Design Guide is not part of the Development Plan. Therefore, the suggested modification is not considered reasonable and would be likely to create issues in relation to deliverability. This modification will therefore not go forward for consultation and the standards under Part A of GC Policy 8 will remain in the DPD as outlined within the Submission Version Plan.

GC Policy 9 'Infrastructure Delivery, Impact Mitigation and Monitoring'

- **MM91 - Part A 'Infrastructure Delivery Mechanism'**

Inspector's Modification:

Remove all references to Community Infrastructure Levy.

Inspector's Reason:

The CIL charging schedule will be considered separately from the DPD.

In addition to the above modifications, the Inspector had agreed that all other modifications within the 'Schedule of Suggested Modifications - Post Hearing Update' should proceed to consultation. No other modifications had been made by the Inspector.

The Joint Committee was therefore asked to note the content of the Inspector's 'Schedule of Modifications', prior to their publication for consultation for a period of six weeks in September/October 2024 in accordance national requirements. The Councils would publish the modifications alongside an updated Sustainability Appraisal (SA), and an updated Habitats Regulations Assessment (HRA) to take account of them.

Following conclusion of the consultation the Inspector would consider the SA, HRA and all representations made in response to the modifications. At the end of the Examination the Inspector would send a report to the Councils recommending whether or not the DPD was legally compliant and sound (with or without some or all of the proposed modifications) and thus whether they could proceed to formally adopt the plan.

The Joint Committee then proceeded to discuss and debate matters pertaining to the Officer's report as follows:-

Councillor Andrea Luxford-Vaughan (CCC)

- *Reiterated that though these were the Inspector's Modifications they had come from the Statements of Common Ground with statutory consultees and the developer. For the record she pointed out that they had not been agreed by the Joint Committee;*
- *Believed that some of the Modifications were creating significant changes to the DPD e.g. going from a link road to a non-link road. This was significant and stopped it from being a sustainable site which should have been picked up in the Sustainability Appraisal (SA);*
- *SA flawed from the beginning in that it did not consider congestion as one of its measurements.*

Councillor William Sunnucks (CCC)

- *Took some comfort from the fact that the Inspector had made it clear in MM75 that the Infrastructure Phasing and Delivery Plan was a requirement and that any variation to it would have to be explained and evidenced by the developer.*

Councillor Andy Baker (TDC)

- *Consultation summary plan in the report made no mention of the affected Parish/Town Councils – wanted to make sure that they were included within the consultation;*
- *Encouraged any and all residents who may have a concern to make a representation.*

It was thereupon moved by Councillor Baker and:-

**RESOLVED** that the Tendring Colchester Borders Garden Community Joint Committee

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1. notes the content of the report and the Inspector's Schedule of Modifications (attached at Appendix 1); and
2. notes the next stage of the examination process, which is to publish the Schedule of Modifications for public consultation.

**8. REPORT A.2 - DELEGATION TO OFFICERS IN RESPECT OF EIA SCOPING REQUESTS**

The Joint Committee considered a detailed report (A.1) which sought its agreement to delegate specific decision making powers to Officers related to determining the scope of environmental issues needing to be covered in an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (as amended) that, in due course, would accompany the future planning application for the Garden Community.

Members were reminded that the terms of reference for the Joint Committee at paragraph 4.6 permitted the powers of delegation contained in section 101(2) of the Local Government Act 1972, to be exercised. To date a Scheme of Delegation had not been proposed due to the nature of the decision-making responsibilities so far resting with the Joint Committee – which had been mainly focussed on the plan-making process in respect of the Development Plan Document (DPD). The strategic and policy setting decisions for the Garden Community, including endorsement of the Development Plan Document and the granting of relevant planning permissions, were decisions for the elected Members of the Joint Committee rather than Officers, given the significance of the development and its cross-border nature.

There were however planning-related functions of an operational and technical nature that required speedy resolution and which, for most other developments, were typically delegated to Officers through an agreed Scheme of Delegation. With the DPD heading into the final stages of the plan-making process, the Garden Community project would soon progress into the Development Management phase within the planning process and the consideration and determination of planning applications. In light of advanced preparatory work, a formal request for a 'Scoping Opinion' to determine the scope of the environmental issues to be covered in an Environmental Statement, to be submitted in support of a future principal planning application for the Garden Community, had been submitted by the lead developers for the Councils' consideration. This was in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (as amended), and the regulations created a statutory basis for the Councils to provide a timely response.

It was considered that responding to an EIA scoping request was a technical matter that was normally delegated to Officers for which there were also statutory timescales. The recommendation of this report sought the Joint Committee's agreement to exercise the powers of delegation to enable the timely determination of the Scoping Opinion request to be taken at Officer level. Members noted that where an Authority (or, in this case, the Joint Committee) had adopted a scoping opinion following the request of an applicant, additional information could be requested at a later date.

Members were informed that, as anticipated in the Joint Committee's Terms of Reference, a comprehensive Scheme of Delegation to Officers would be prepared for



the Joint Committee's consideration and approval as the Garden Community project progressed from the policy plan making phase to the Development Management phase. This was likely to include, amongst other things, applications for minor or non-material amendments (NMA) to already approved developments and matters relating to enforcement action, advertisement consent and Tree Preservation Orders (TPOs).

Generally, it was considered best practice by the Planning Advisory Service (the Government's appointed experts in planning matters) that approximately 95% of planning applications were determined by Officers – however for the Garden Community development, it was appropriate for important decisions to be taken by the Joint Committee and therefore only selected types of decisions of a more minor, technical and time constrained nature were likely to be suggested for delegation to Officers in the future.

A comprehensive Scheme of Delegation to Officers would therefore be brought to a future meeting of the Joint Committee for consideration and agreement. This would allow the smooth running of planning functions and timely determinations and an efficient turnaround of certain planning matters aligned with the Government's statutory targets.

The Joint Committee then proceeded to discuss and debate matters pertaining to the Officer's report and recommendations as follows:-

Councillor Andrea Luxford-Vaughan

- *Did not accept that EIA scoping requests were too technical for Members. If Officers were of a contrary view then additional training and support should be provided and should already have been in place in time for this and should be in place in time for when the full planning application comes forward;*
- *Scope should cover noise, vibration and air quality in addition to the list put forward by Manda O'Connell;*
- *The scope will turn into an environmental statement which will form one very small element of the evidence supporting the planning application. If timescales are an issue for the scoping requests then dealing with the planning application itself within the available timescale will be a very great difficulty;*
- *Members would need to 'block out' a significant period of time in their diaries to be able to consider all of the evidence et cetera;*
- *The three Councils have already delegated powers to the Joint Committee. Did not believe that the Joint Committee had the remit to release control of powers that the three Councils had invested in it. Would be undemocratic to do so;*
- *Believed that it was vital that there should be a call-in procedure to enable Joint Committee members to refer a matter that would otherwise be dealt with by an Officer to the Joint Committee for its determination. Otherwise Members had no recourse at all;*
- *At the moment, completely in the dark as to how Officers will deal with these scoping requests so completely against any delegation of powers.*

Councillor William Sunnucks (CCC)

- *Prepared to support the delegation subject to two changes relating to the link road and health care;*

- *Upset that Members have not seen any proposals of how this delegation would be carried out by Officers i.e. no scheme of delegation;*
- *Transport story (link road): goes round and round as to costs et cetera. Needs an independent transport report from a consultant instructed by the Joint Committee to get to the bottom of this issue and get the full story on the link road. Government believes that this project is stalled which effectively it is until the link road issue is sorted;*
- *Mention of Primary Health Care in the scoping but no mention of Hospitals. A large garden community development will put local hospital facilities under added pressure/strain. Therefore, need a Health Care Impact Assessment as well.*
- *Supported a "call-in" right for Joint Committee members.*

Councillor Andy Baker (TDC)

- *Not against delegated powers which are used all the time at TDC. Leaves the Planning Committee to deal with the important stuff;*
- *Tight timescale for these scoping requests laid down by legislation though the applicants had agreed an extension until the end of September;*
- *Document is complex and long;*
- *Supports the delegation. Such matters take time and expertise which the Officers have. Members are not planners.*
- *This project is not stalled as Deputy Prime Minister has now accepted. On track but currently it is in the hands of the Inspector reviewing the DPD;*
- *The Environmental Statement, once submitted, can be debated at the Joint Committee if Members are not happy with its contents. If necessary, Members can vote to refuse the application. Therefore, the power still lies in the hands of Members.*

Councillor Lesley Wagland (ECC)

- *Supported vigorously Councillor Baker's comments;*
- *What goes into the scoping document must be based on planning expertise which the Officers have and not Members. If that scope is faulty then there could be legal consequences and possibly awards of costs against the three Councils;*
- *Members could do this but for reasons Councillor Baker explained it would not be sensible approach to take.*

Councillor Lee Scott (ECC)

- *Does not believe that Officers ever meant in any way to imply that Members were not capable of considering scoping requests;*
- *Is the general practise among many authorities to give this delegated power;*
- *Does not share some of the concerns expressed but understand where they are coming from and appreciates that;*
- *Content to vote for the delegated powers.*

Councillor David King (CCC)

- *Given timetables and pressures of the process, was minded to support;*
- *Every decision that matters will still come before the Joint Committee;*
- *Normal practice to have delegations.*

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Amy Lester, the Garden Community Planning Manager (TDC), responded to Members' statements as follows:-

- *In relation to hospitals and healthcare, as part of this consultation Officers have consulted with NHS colleagues and various health bodies. They had been in communication on this and were engaging. Will be feeding back their response on this and that response will be provided to the Applicant as part of the Scoping Opinion that Officers will issue;*
- *In relation to the Health Impact Assessment, the DPD does require a HIA to be provided with the planning application(s);*
- *All of the consultation responses that come in from the statutory bodies at this early stage will be considered and feedback as part of the Officers' scoping opinion and also passed onto the Applicant for their information;*
- *In relation to the requirement for an independent Transport report, the transport elements within the submitted scoping report are being robustly reviewed by transport colleagues at ECC and also by National Highways, as a statutory consultee. They will also feed into the scoping opinion issued and those responses provided to the Applicant;*
- *Will set the basis on what needs to come forward within the Environmental Statement as well.*

Councillor David King (CCC)

- *From his perspective, those who have a statutory responsibility e.g. health and transport (nationally and locally), their inputs set the framework for what will be required from the Applicant which will then be considered by the Joint Committee.*

Amy Lester confirmed that point was correct.

Councillor William Sunnucks (CCC)

- *Concern was that Health Impact Assessment focused on impact on residents and not on impact on hospital capacity and on what the Applicant will do to mitigate that harm. Needs to be included within the HIA;*
- *Transport – Essex Highways have big incentive to 'kick the can down the road'. No public trust in infrastructure first. Therefore, a clear need for an independent transport assessment.*

Amy Lester responded that those matters would be covered within the Environmental Impact Assessment, the Environmental Statement and the Health Impact Assessment that would accompany the application in due course.

In response to a question from Councillor King, Amy Lester confirmed that members of the Joint Committee and Ward Councillors could submit their own representation on the scoping opinion. Parish Councils and Colchester and Tendring Ward Councillors had been consulted. All responses received would be taken into account in finalising the scoping opinion and would be provided to the Applicant. The formal 28 day consultation period had passed. The statutory five week time period to determine these applications had elapsed. However, an extension of time had been agreed with the Applicant until 30 September 2024. Officers had granted their own extension of time to some statutory bodies to enable them to submit their consultation response. Officers could do the same

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for other consultees such as Members. The consultation was still open on the Councils' websites for representations to be submitted.

Councillor Lesley Wagland (ECC)

- *Important to get this scoping opinion under a delegated scheme that Officers make the decision,*
- *Not concerned with what goes into that as long as it is consistent with what Councils are entitled to take into account legally;*
- *Members cannot micromanage this scoping agreement but should spend more time on the Environment Statement itself.*

Councillor Andrea Luxford-Vaughan (CCC)

- *Pressed again for clarification as to whether there would be a call-in procedure for delegated powers. Would it follow the same system as at Colchester City Council.*

Andrew Weavers (Head of Governance & Monitoring Officer) (CCC) responded that there would be no scope for a call-in procedure for this delegated decision.

Councillor William Sunnucks (CCC)

- *Pressed for an answer as to whether there would be an independent transport study carried out either by the three Councils or by the Applicant.*

Councillor Lesley Wagland (ECC)

- *Responded to Councillor Sunnucks by stating that the assessments are being made by the Highway Authority. That is ECC's responsibility. Will, where appropriate, get independent assessments of different elements as par for the course;*
- *Has personally seen no evidence that would support a suggestion that ECC would put inflated or otherwise inappropriate statements into documents;*
- *No reason to revisit with a separate independent assessment unless any party involved wished to do that in their own right e.g. individual members of the public or Parish Councils*

It was thereupon moved by Councillor Baker, seconded by Councillor Wagland and:-

**RESOLVED** that the Tendring Colchester Borders Garden Community Joint Committee

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- (a) exercises its powers of delegation in accordance with its Terms of Reference and in accordance with Section 101(2) of the Local Government Act 1972 and agrees to delegate authority to the Director of Planning for Tendring District Council, the Deputy Chief Executive and Executive Director of Colchester City Council and the Director for Sustainable Growth of Essex County Council to determine, through joint agreement and in consultation with the Chairman and Vice-Chairman of the Tendring Colchester Borders Garden Community Joint Committee, the scope of the environmental issues to be covered in an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (as amended); and

- (b) agrees that should joint agreement not be reached by the Officers of the three authorities, acting under their delegated authority, then the response to the request for a scoping opinion will be brought to the Joint Committee for its determination.

Note: The motion was carried 5 votes in favour to 2 votes against (Councillors Luxford-Vaughan and Sunnucks voted against).

The meeting was declared closed at 8.28 pm

**Chairman**

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