

COUNCIL

20 MAY 2025

REFERENCE FROM THE TENDRING / COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

A.2 TENDRING / COLCHESTER BORDERS GARDEN COMMUNITY – FORMAL ADOPTION OF THE DEVELOPMENT PLAN DOCUMENT

(Report prepared by Ian Ford)

PURPOSE OF THE REPORT

To enable Council to consider the recommendation of the Tendring / Colchester Borders Garden Community Joint Committee that the modified version of the Garden Community Development Plan Document and the accompanying Policies Map be formally adopted by Tendring District Council.

EXECUTIVE SUMMARY

At its meeting held on 1 May 2025, the Tendring / Colchester Borders Garden Community Joint Committee (“the Joint Committee”) had considered a detailed report (A.1) that had sought the Joint Committee’s recommendation that the Tendring / Colchester Borders Garden Community (TCBGC) Development Plan Document (DPD), with specific modifications, be formally adopted by Tendring District Council and Colchester City Council (“the Councils”). This had followed on from the receipt of the Planning Inspector’s final examination report.

It had been reported to the Joint Committee that, following examination hearings in May 2024, and consultation on the recommended Modifications in September/October 2024, the Planning Inspector had issued his Final Report on the soundness and legal compliance of the DPD. With the incorporation of the Inspector’s final set of Main Modifications (Appendix 2), the DPD had been found to be sound and legally compliant. This conclusion to the examination now gave the Councils the ability and authority to proceed to formally adopt the Plan.

It was believed by the Joint Committee that the adoption of the DPD would provide an up to date, robust and sustainable basis for guiding future growth and development within the Garden Community – with future planning applications being considered and determined, by the Joint Committee, against the policies and proposals within the DPD in decision-making.

The Joint Committee had been advised that the modifications required by the Inspector had not departed substantially from those that had been reported to the Joint Committee on 5th September 2024 and subsequently published for consultation. The Inspector had however highlighted four Main Modifications as being of particular significance within the summary of his report, those being:-

- *Amending GC Policy 1 to clarify that should the provision of the Park and Choose facility be located south of the A133 it should not prejudice the full and comprehensive expansion needs of the University of Essex (UoE) (MM11);*
- *Amending GC Policy 2 to ensure that the minimum requirement of 10% Biodiversity Net Gain (BNG) was met across the masterplan area as required by current legislation (MM90);*
- *Amending GC Policy 7 to ensure that the DPD carried forward the requirements of the*

North Essex Authorities' Shared Strategic Section 1 Plan 2021 (NEASSS1P) to secure funding and delivery of the Rapid Transit System (MM60); and

- *Removing reference to a potential future Community Infrastructure Levy ('CIL') charging schedule, which would be subject to a separate independent examination (MM91).*

In addition, it had been reported that four proposed Modifications that had been the subject of consultation, had been removed by the Inspector from his final Main Modifications namely MM14 to MM17 which related to amendments to the DPD Policies Map. Those had been removed as the Policies Map was not defined in statute as a Development Plan Document and therefore the Inspector had not the power to recommend Main Modifications to it. Notwithstanding this, those changes were required to correct typographical errors and ensure that the relevant policies were effective, and the Inspector had noted the need to implement those changes. The Policies Map would therefore still be updated accordingly to reflect the changes that had been published for consultation.

Members of the Joint Committee had been informed that except for the above noted removal of MM14 - MM17 from the recommended Modifications relating to the Policies Map, all other Main Modifications recommended by the Inspector had remained consistent with those published for consultation. The Main Modifications had ensured that the plan had been positively prepared, justified, effective and was consistent with national policy. The DPD had therefore been modified to reflect the Inspector's Main Modifications, and the Joint Committee had been asked to recommend to Full Council at both Tendring District Council and Colchester City Council its formal adoption.

It had been RESOLVED by the Joint Committee:-

"That the Tendring Colchester Borders Garden Community Joint Committee –

- a) notes the outcome of the examination of the Tendring Colchester Borders Garden Community Development Plan Document (DPD), as set out within the Inspector's final report (attached as Appendix 1), and the final schedule of Main Modifications (attached as Appendix 2) and notes to the conclusion that the DPD, with the Main Modifications, is legally compliant, meets the Government's tests of soundness and can proceed to formal adoption; and*
- b) formally recommends to both Tendring District Council's and Colchester City Council's respective Full Councils that the modified version of the Development Plan Document (DPD) and the accompanying Policies Map, as attached at Appendix 3 and Appendix 4 to this report (A.1), be formally adopted."*

Resolution (b) above is pertinent to this report.

A copy of the published report (and its appendices) to the Joint Committee meeting held on 1 May 2025 is attached to this report.

RECOMMENDATIONS

That Council, having considered this reference report from the Tendring / Colchester Borders Garden Community Joint Committee, formally adopts the modified version of the Garden Community Development Plan Document and the accompanying Policies Map, as attached as Appendices A and B respectively to this reference report.

MONITORING OFFICER'S ADVICE

At its meeting on 30th November 2021, Full Council approved (Minute No. 93) that –

- (a) a joint Development Plan Document be prepared together with Colchester Borough Council in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004;
- (b) a Tendring Colchester Borders Garden Community (TCBGC) Joint Committee be appointed for the discharge of executive and non-executive functions related to TCBGC, pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972.

The Terms of Reference of the Joint Committee are contained within Schedule 5 of Part 3 of the Council's Constitution (Part 3.57 to 3.59) and for the purposes of this report are as follows:

(a) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:

- a. is in accordance with the Local Development Schemes;*
- b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;*
- c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;*
- d. has regard to the adopted Section 1 of CCC & TDC's Local Plan;*
- e. has regard to the resources likely to be available for implementing the proposals in the document;*
- f. other such matters the Secretary of State prescribes; and*
- g. complies with the Council's Statement of Community Involvement*

...

- (f) recommend to CCC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and

The Joint Committee has fulfilled the task delegated to it by both Cabinet and Full Council to oversee the production of a Development Plan Document (DPD) for the Garden Community and following a decision by the Secretary of State that the DPD meets the test of soundness, recommend the Joint DPD to both Tendring and Colchester Councils for adoption.

Particular attention is drawn to the Resources and Risk Section of the Report to the Joint Committee, to highlight the implications of not adopting the recommended DPD, which for ease of reference is included below:

"Under the plan-making regulations, the Councils would not be able to formally adopt the DPD contrary to the Inspector's findings, i.e. without first making the specified modifications. Therefore, the only alternative option to lawfully adopting the DPD with the Inspector's modifications (as recommended by the Joint Committee through this report) would be to withdraw the DPD and either begin the plan-making process again or to

otherwise abandon the process.

However, the Garden Community is allocated as a broad location for development in the adopted Section 1 Local Plan and the proposal still forms part of the statutory development plan – with an expectation of the development coming forward and contributing towards the growth of Tendring, Colchester and North Essex up to 2033 and beyond. Therefore, the alternative of not proceeding with the adoption of the DPD would leave the Councils in a vulnerable position going forward without a formally endorsed framework of detailed policies and spatial parameters for steering the future growth and development of the Garden Community and for use in the determination of potential planning applications.

It would leave the Councils with only the higher-level policies within the Section 1 Local Plan against which to make decisions on applications and would seriously undermine the ability of the Councils to either bring forward the Garden Community at all (which will impact on achievement of Tendring and Colchester's Local Plan growth requirements and other ambitions associated with the development) or to otherwise reduce the degree of control the Councils could exercise, in the event that planning applications still came forward. There would also be implications for the Councils in being able to demonstrate both that planning policies are up to date and that an ongoing 5-year supply of deliverable housing land can be identified against Local Plan targets - which could leave both authorities more vulnerable to speculative planning applications, the presumption in favour of development and planning by appeal.

There is a risk therefore that should the DPD not be adopted or adoption is delayed, forthcoming applications could not be considered and decisions not taken in an appropriate timescale and the ongoing ability for the Councils to manage growth within the TCBGC and wider area will be compromised. Delay in the determination of applications would pose a risk to the timetable for the overall Garden Community project, the delivery of the first phase of homes and associated infrastructure, and the ongoing support that the project has received from central government, including through grant funding.

Both TDC and CCC are in the process of reviewing and updating their Local Plans and are having to respond to the new and ambitious mandatory housebuilding targets being imposed by the Government following changes to the National Planning Policy Framework (NPPF). Local Planning Authorities (LPAs) are required to have an up-to-date Local Plan or face government sanctions/intervention or risk planning by appeal. A decision not to adopt the DPD would have implications for the Local Plan process at both TDC and CCC – and other locations that might or might not need to be considered to make up for any potential development shortfall that results.”

BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Tendring / Colchester Borders Garden Community Joint Committee held on 1 May 2025.

APPENDICES

Appendix A = The modified version of the Development Plan Document

Appendix B = The accompanying Policies Map (as modified)

Appendix C = The covering report submitted to the Joint Committee on 1 May 2025

Appendix D = The Planning Inspector's Report (dated 31 March 2025)

Appendix E = The Planning Inspector's Schedule of Main Modifications

Appendix F = The TCBGC Project Programme