

North Essex Authorities' Position Statement on Delivery Mechanisms

1. The National Planning Policy Framework 2012 requires local plans to be deliverable. This is reflected in the "effective" part of the soundness test, which requires local plans to be deliverable over the plan period (para. 182). In addition the NPPF requires local planning authorities to take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, using the full range of powers available to them.
2. From the outset the North Essex Authorities have been concerned to ensure that the proposed garden communities are deliverable. That concern is evidenced in work such as the Garden Communities Concept Feasibility Study (EB/008) which undertook an analysis of the constraints and opportunities within areas of search and the further more detailed work undertaken in the Concept Frameworks for each proposed garden community (EB/012, EB/026 and EB/027).
3. Further work has since been undertaken which supports these initial conclusions. The NEA have investigated the possible physical and financial constraints and are satisfied, on the basis of the evidence prepared, that each of the communities is deliverable.
4. In most cases local plan allocations are supported by landowners and developers who, in normal market circumstances, will then take responsibility for the development of allocated sites. The ability of landowners and developers to deliver is not usually examined in detail.
5. The NEA appreciated that the scale and complexity of the proposed garden communities, and the need to secure a high quality of development over a lengthy period of delivery, required them to consider how each community would be developed. Their approach was described in the submission draft Local Plan:

8.11 At least two of the three garden communities will be cross-boundary, and continued close joint working between the authorities involved will be required to secure their successful delivery. Each of the authorities is committed to ensuring that the new garden communities are as sustainable and high quality as possible and that the infrastructure needed to support them is delivered at the right time. This will require the local authorities to work very closely with the landowners within the proposed garden community locations to develop and put in place a robust delivery mechanism that will ensure a fair and equitable distribution of the costs and land requirements needed to secure the ambitions for these garden communities and create a long term legacy appropriate to the scale of this ambition. The Councils have developed and incorporated Local Delivery Vehicles (LDV) that could be used to deliver the garden communities. The Councils are aware of the emerging Government proposals for locally led new town development corporations that may offer an alternative means of delivery. Other delivery models are also being considered, and an appropriate tailored approach will need to be used in relation to each community. The Councils are confident that the LDV models viable and can deliver successful and sustainable garden communities, but will continue to explore other ways of achieving the vision that offer similar levels of confidence that the right quality of development will be delivered at the right time. The North Essex Garden Communities Charter has provided a good starting point in creating a framework for this approach.

6. Ahead of the publication of the draft Local Plan in 2017 and in order to be confident about delivery the four Councils set up a joint company, North Essex Garden Communities Ltd to act, through local delivery vehicles, to deliver the proposed communities. At the time of the publication of the draft Local Plan the intention was that the four Councils would use, if necessary, the then existing planning, compulsory purchase and other powers to assist NEGC in delivering the communities. Each of the Councils agreed in principle to this approach.
7. That approach was reflected in the NEGC Charter which envisaged that the garden communities would be delivered through local delivery vehicles. The draft Local Plan made it clear, however, that the NEA remained willing to consider other delivery models if other approaches offered similar levels of confidence that the right quality of development would be delivered at the right time. In particular, the draft Local Plan noted that the NEA were aware of the emerging Government proposals for locally led new town development corporations (LLNTDCs) and recognised that those proposals offered an alternative means of delivery.
8. Since the submission of the draft Local Plan in June 2017 there has been an increased Government focus on both the delivery of new homes and on garden communities. On delivery this has led to the introduction of the Housing Delivery Test that puts a far stronger emphasis on local planning authorities having a responsibility to secure the delivery of new homes. The commissioning of the Letwin Report indicated the Government's agenda.

9. The Government introduced new statutory provisions to allow for the promotion of LLNTDCs. Since the initial examination in public that legislative framework has been supported by detailed regulations, guidance on when LLNTDCs can be incorporated and draft guidance on the use of compulsory purchase powers by LLNTDCs.
10. In the light of these changes the four Councils believe that an LLNTDC is clearly an appropriate model for delivering the garden communities. It provides a clear and long-lasting vehicle committed to delivering the ambitions of the draft Local Plan, with statutory obligations to ensure good design, stewardship and community participation. LLNTDCs also have planning and compulsory purchase powers that make delivery simpler than would have been the case using existing local authority powers.
11. The NEGC Charter and draft Local Plan has been amended to refer to the potential for the NEA's to deliver the garden communities via LLNTDCs. These amendments do not preclude other options being explored and for the purposes of the draft Local Plan the NEA do not rely on the use of an LLNTDC. If other delivery models can achieve the same levels of confidence about quality, equalisation, delivery, stewardship and control throughout the plan period and beyond they will continue to be explored. It may be the case that different models emerge in each garden community, perhaps with joint venture or land owner agreement arrangements under the umbrella of an LLNTDC. It will ultimately be for the NEA to make a decision on a community by community basis.
12. It is important to note that the use of the compulsory purchase powers of an LLNTDC is not needed in order to secure the viability of the garden communities. If an LLNTDC is used then the landowners of any land compulsorily acquired will be compensated in accordance with the compensation code. Land will be valued in accordance with the "no scheme" world principles. The effect of the 'no scheme principle' is that any increase in value attributable to the designation of land as a new town under section 1 of New Towns Act 1981 is to be disregarded when assessing compensation. The compensation payable will depend on the likely development prospects of that land at the time of acquisition. In the absence of the garden community scheme most of the land in the proposed garden community boundaries is

not developable in the foreseeable future. The NEA have received professional advice that the land would be valued at close to the existing use value, with a margin in appropriate circumstances to reflect any existing hope value or development prospects.

13. If an LLNTDC is not the delivery vehicle and the garden communities are brought forward by landowners and developers they will be expected to meet all costs associated with the delivery of the garden communities in accordance with the policies in the draft Local Plan and in the proposed Strategic Growth DPDs. Land prices in the area will have to adjust to reflect those policy requirements.
14. If landowners are unwilling to release land at prices that allow for development to proceed whilst meeting Local Plan policy requirements then the NEA remain willing, in principle, to use CPO powers to ensure that land is acquired to support the delivery of the new communities whether by LDVs or by private promoters if that ensures that the development meets development plan policy requirements. Paragraph 119 of NPPF 2018, which would be relevant to any future CPO, supports the use of compulsory purchase powers where it can help bring more land forward to meet development needs and/or secure better development outcomes.
15. The compensation value paid in those circumstances would either be the value of the land in the no scheme world (since the use of CPO powers would then suggest that in the absence of a CPO appropriate development is not possible) or the residual value of the land having met policy requirements. The former reflects the valuation principles that would apply to LLNTDCs. The latter reflects RICS guidance principles on valuation.

North Essex Authorities

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