

Minutes



Local Plan Sub-Committee

18th July 2019

Present:

Councillors	Present	Councillors	Present
D Bebb	Apologies	P Horner	Yes
K Bowers	Apologies	D Hume	Yes
G Butland	Yes (from 6.20pm)	Mrs G Spray (Chairman)	Yes
T Cunningham	Yes	T Walsh	Yes
A Everard	Yes	J Wrench	Yes

Councillors Abbott, Baugh, Mrs Cunningham, Euesden, Mrs Garrod, Hensman, McKee, Mrs Parker, Pritchard, Rehman, Rose, Schwier, Tattersley, Unsworth, Mrs Wilson and Wright were also in attendance.

Mr R Smith, representing Hyas Associates Ltd, attended the meeting to present Agenda Item 7 - Viability Assessment Update.

The Chairman stated that Agenda Item 5 – ‘Section 1 Local Plan Examination - Additional Sustainability Appraisal, Evidence and Proposed Amendments’ would be considered after Agenda Item 8 – ‘Phasing and Delivery Update’.

9 **DECLARATIONS OF INTEREST**

INFORMATION: The following interests were declared:

On behalf of Members of the Local Plan Sub-Committee, Councillor Mrs G Spray declared a non-pecuniary interest in Agenda Items 5, 6, 7 and 8 relating to Garden Communities, as Mrs L Bowers-Flint who was speaking at the meeting during Question Time was a former Elected Member of Braintree District Council and she was known to some of them.

Councillor G Butland declared a non-pecuniary interest in Agenda Items 5, 6, 7 and 8 relating to Garden Communities, as a non-remunerated Director of North Essex Garden Communities Ltd.

Councillor Mrs G Spray declared a non-pecuniary interest in Agenda Items 5, 6, 7 and 8 relating to Garden Communities, as a non-remunerated Director of North Essex Garden Communities Ltd.

In accordance with the Code of Conduct, Councillors remained in the meeting and took part in the discussion when the Items were considered.

10 **MINUTES**

DECISION: That the Minutes of the meeting of the Local Plan Sub-Committee held on 11th July 2019 be approved as a correct record and signed by the Chairman.

11 **QUESTION TIME**

INFORMATION: There were nine statements made regarding Garden Communities and Braintree District Publication Draft Local Plan 2017.

The Chairman stated that Question Time had been over-subscribed, but that it had been possible for a representative group of people to speak. The Chairman wished to record her thanks to Mrs E Wisbey, Governance and Member Manager for her assistance in managing the requests. It was proposed that the Question Time process should be reviewed by the Developing Democracy Group.

Mr D Churchill, representing L & Q, had requested to speak at the meeting, but he had been unexpectedly delayed. However, Mr Churchill had submitted a written statement, a copy of which was provided to Members of the Local Plan Sub-Committee at the meeting.

The Chairman stated that some people who had spoken at the Sub-Committee's meeting held on 11th July 2019 considered that their questions had not been answered. The Chairman indicated that the points raised had been addressed, based on the information available at the time. Officers would seek to answer questions raised during Question Time on 18th July 2019 at the meeting.

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

12 **NORTH ESSEX GARDEN COMMUNITIES – ADDITIONAL HABITATS REGULATION ASSESSMENT**

INFORMATION: Section 1 of the emerging Local Plan ('the Section 1 Plan') set out an overarching strategy for future growth across the Braintree, Colchester and Tendring Local Authorities, known as the 'North Essex Authorities' ('NEAs'). The Section 1 Plan included policies regarding the overall housing and employment requirements for North Essex up to 2033 and it proposed three new cross-boundary 'Garden Communities' along the A120 corridor.

In October 2017, the NEAs had submitted their Local Plans to the Secretary of State for Communities and Local Government to begin the formal process of examination and an Inspector had been appointed to undertake the examination of Section 1 of the Plan. Following the examination hearing, the Inspector had written to the NEAs setting out interim feedback on the soundness and legal compliance of the Section 1 Plan including the Garden Communities proposals. Whilst supporting many elements of the Plan, the Inspector had identified a number of key issues about the

viability and deliverability of the Garden Communities and he had been unable to endorse the Section 1 Plan as sound. Instead, the Inspector had provided the Authorities with three options for progressing the Section 1 Plan to adoption.

The NEAs had subsequently advised the Inspector that they remained committed to using Garden Communities principles to secure future housing requirements in North Essex and they agreed to provide further evidence about the availability of funding for strategic infrastructure; the financial viability of the proposed Communities; the environmental effects, including transport issues; employment provision within the Communities; and continuing engagement with the local communities. The NEAs had committed also to reviewing the 'Sustainability Appraisal' of the Local Plan to ensure that it considered a full range of realistic alternatives to the Garden Communities.

It was reported that the 'Habitats Regulations' related to the protection of wildlife sites of European importance including Special Protection Areas and Special Areas of Conservation. A 'Habitats Regulation Assessment' (HRA) was required in order to determine whether or not a proposal, policy or plan for development would adversely affect the integrity of a European site either alone, or in combination with other plans and projects. The HRA had to be undertaken by a 'competent authority', which for the Section 1 Plan, was the NEAs.

An HRA had been carried out for the Section 1 Plan. However, following the submission of the Local Plan for examination there had been a landmark legal ruling from the Court of Justice for the European Union called the 'People over Wind, Peter Sweetman v Coillte Teoranta' judgement. This judgement had implications for how HRAs should be carried out and at what stage of the process mitigation measures intended to avoid or reduce any harmful effects should be carried out. The Inspector had advised the NEAs to consider the implications of the legal judgement and to ensure that the HRA was compatible with it. In response, Land Use Consultants (LUC) had been commissioned by the NEAs to update the HRA for the Section 1 Plan in consultation with statutory agencies, including Natural England. This had been completed in June 2019.

The HRA had identified the likely significant effects of the Section 1 Plan on European sites as being loss of off-site habitat, recreational impacts and water quality impacts. The Assessment had concluded that mitigation measures could be secured as part of development in order to address loss of off-site habitat; that recreational impacts could be mitigated through measures set out in the Essex Recreation Disturbance Mitigation Strategy (RAMS); and that development should not have an adverse impact on water quality, subject to water treatment capacity issues being addressed prior to development. It was proposed that policies in the Section 1 Plan should be modified to ensure that the Plan properly reflected the findings of the updated HRA and that necessary mitigation was put in place.

DECISION: That the additional Habitats Regulation Assessment for the Section 1 Local Plan be approved.

Mr R Smith, representing Hyas Associates Ltd, attended the meeting to present this Item and to answer questions.

INFORMATION: Section 1 of the emerging Local Plan ('the Section 1 Plan') set out an overarching strategy for future growth across the Braintree, Colchester and Tendring Local Authorities, known as the 'North Essex Authorities' ('NEAs'). The Section 1 Plan included policies regarding the overall housing and employment requirements for North Essex up to 2033 and it proposed three new cross-boundary 'Garden Communities' along the A120 corridor.

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The NEAs had subsequently advised the Inspector that they remained committed to using Garden Communities principles to secure future housing requirements in North Essex and they agreed to provide further evidence about the availability of funding for strategic infrastructure; the financial viability of the proposed Communities; the environmental effects, including transport issues; employment provision within the Communities; and continuing engagement with the local communities. The NEAs had committed also to reviewing the 'Sustainability Appraisal' of the Local Plan to ensure that it considered a full range of realistic alternatives to the Garden Communities.

It was important that proposals in the Local Plan were economically viable to ensure that there was a realistic prospect of them being delivered within the timescales envisaged. The Garden Communities proposals were supported by an assessment of viability undertaken by Hyas, which had been subject to considerable debate at the examination hearing.

In his letter following the hearing, the Inspector had acknowledged the 'strategic' nature of the viability work and he had accepted that generally reasonable assumptions had been adopted with respect to a broad range of key inputs. However, the Inspector had highlighted a number of areas where he felt that the viability assessment required additional work and that it had not demonstrated sufficiently that the proposed Garden Communities were financially viable. The specific areas of concern were transport infrastructure costs; land purchase and interest; contingencies and sensitivity testing; price of land; and other specific aspects including the cost and timing of a potential new railway station at Marks Tey, the build out rate being achievable, the provision of employment land, and the

ability to deliver the required level of affordable housing. In response to these issues, Hyas had produced an updated viability assessment, which took into account the latest information. In addition, Gleeds had produced a detailed cost estimate which set out the overall scope, scale and estimated cost of the strategic infrastructure requirements for each of the proposed Garden Communities. The updated assessment had concluded that each of the Garden Communities proposals could be considered viable. The assessment had revealed that the Tendring/Colchester and Colchester/Braintree Garden Communities would rely on either grant funding, and/or inflationary impacts to demonstrate viability. However, the consultants considered that these scenarios were credible and realistic. The viability of the Garden Communities would be subject to on-going monitoring and review. The overall findings of the updated viability assessment suggested that there was no reason to abandon any of the three Garden Communities proposals on the basis of economic viability.

DECISION: That the Viability Assessment Update be approved as part of the evidence base for the Local Plan.

14 **NORTH ESSEX GARDEN COMMUNITIES – PHASING AND DELIVERY UPDATE**

INFORMATION: Section 1 of the emerging Local Plan ('the Section 1 Plan') set out an overarching strategy for future growth across the Braintree, Colchester and Tendring Local Authorities, known as the 'North Essex Authorities' ('NEAs'). The Section 1 Plan included policies regarding the overall housing and employment requirements for North Essex up to 2033 and it proposed three new cross-boundary 'Garden Communities' along the A120 corridor.

In October 2017, the NEAs had submitted their Local Plans to the Secretary of State for Communities and Local Government to begin the formal process of examination and an Inspector had been appointed to undertake the examination of Section 1 of the Plan. Following the examination hearing, the Inspector had written to the NEAs setting out interim feedback on the soundness and legal compliance of the Section 1 Plan including the Garden Communities proposals. Whilst supporting many elements of the Plan, the Inspector had identified a number of key issues about the viability and deliverability of the Garden Communities and he had been unable to endorse the Section 1 Plan as sound. Instead, the Inspector had provided the Authorities with three options for progressing the Section 1 Plan to adoption.

The NEAs had subsequently advised the Inspector that they remained committed to using Garden Communities principles to secure future housing requirements in North Essex and they agreed to provide further evidence about the availability of funding for strategic infrastructure; the financial viability of the proposed Communities; the environmental effects, including transport issues; employment provision within the Communities; and continuing engagement with the local communities. The NEAs had committed also to reviewing the 'Sustainability Appraisal' of the Local Plan to ensure that it considered a full range of realistic alternatives to the Garden Communities.

The Section 1 Plan set out an ambitious plan to uphold high standards of place making and design and to ensure the timely delivery of transport, community, health

and educational infrastructure. However, the Inspector had stated that whilst supporting the NEAs ambition to deliver infrastructure in this way, he had not seen sufficient evidence to demonstrate how such an approach could be delivered.

In response, the NEAs had appointed AECOM to prepare an 'Infrastructure Planning, Phasing and Delivery' report to provide evidence on how the ambitions set out in Policies SP7, SP8, SP9 and SP10 could be delivered and to demonstrate the phased manner in which infrastructure would be provided for the Garden Communities alongside new homes. The report was consistent with separate evidence produced in respect of viability. Both reports demonstrated the deliverability and financial viability of the approach put forward in the Section 1 Plan.

DECISION: That the 'Infrastructure Planning, Phasing and Delivery' report by AECOM and the 'Infrastructure Order of Cost Estimate' report by Gleeds be approved as part of the Local Plan evidence base.

15 **SECTION 1 LOCAL PLAN EXAMINATION - ADDITIONAL SUSTAINABILITY APPRAISAL, EVIDENCE AND PROPOSED AMENDMENTS**

During the consideration of this Item Ms E Goodings, Head of Planning and Economic Development, addressed a number of questions which had been raised during Question Time. This included a response to a question by Ms R Pearson on behalf of CAUSE. As Ms Pearson had left the meeting, it was agreed that the response should be sent to her in writing.

INFORMATION: Section 1 of the emerging Local Plan ('the Section 1 Plan') set out an overarching strategy for future growth across the Braintree, Colchester and Tendring Local Authorities, known as the 'North Essex Authorities' ('NEAs'). The Section 1 Plan included policies regarding the overall housing and employment requirements for North Essex up to 2033 and it proposed three new cross-boundary 'Garden Communities' along the A120 corridor.

In October 2017, the NEAs had submitted their Local Plans to the Secretary of State for Communities and Local Government to begin the formal process of examination and an Inspector had been appointed to undertake the examination of Section 1 of the Plan. Following the examination hearing, the Inspector had written to the NEAs setting out interim feedback on the soundness and legal compliance of the Section 1 Plan including the Garden Communities proposals. Whilst supporting many elements of the Plan, the Inspector had identified a number of key issues about the viability and deliverability of the Garden Communities and he had been unable to endorse the Section 1 Plan as sound. Instead, the Inspector had provided the Authorities with three options for progressing the Section 1 Plan to adoption.

The NEAs had subsequently advised the Inspector that they remained committed to using Garden Communities principles to secure future housing requirements in North Essex and they agreed to provide further evidence to address each of the Inspector's concerns in respect of Housing Infrastructure Fund (HIF) Bids, viability, phasing and delivery, delivery mechanisms, infrastructure, A120 dualling, Rapid Transit System, modal shift, Marks Tey railway station, housing delivery, employment land and Habitats Regulation Assessment (HRA). The NEAs had

committed also to reviewing the 'Sustainability Appraisal' (SA) of the Local Plan to ensure that it considered a full range of realistic alternatives to the Garden Communities.

One of the Inspector's main concerns had been with regard to the Sustainability Appraisal. This was a legal requirement of the Plan making process and a key piece of evidence in determining the most appropriate 'spatial' strategy for growth. The Inspector had concluded that some of the assumptions made in the SA were either not properly justified, or were biased in favour of the NEA's preferred spatial strategy for three Garden Communities and did not represent an objective, or reliable assessment. The Inspector had stated that further work would be required to rectify this and he had recommended that different consultants should be appointed to carry out the work.

An Additional SA had been carried out by consultants LUC, who had followed a revised methodology. The first stage of the Additional SA had tested a range of alternative development site proposals against a series of tried and tested 'sustainability criteria'. The second stage of the SA had tested different combinations of site proposals against sustainability criteria representing a reasonable range of alternative spatial strategies. The findings of the Additional SA indicated that many of the site proposals and alternative spatial strategy options were closely matched when assessed against the sustainability objectives. However, none of the alternative spatial strategies stood out as performing notably stronger than the current strategy in the submitted Section 1 Plan. In the circumstances, it was proposed that the NEAs should continue to promote the current spatial strategy involving the creation of three new Garden Communities in the locations currently proposed.

In addition, further evidence had been produced on other areas of concern raised by the Inspector. Based on this evidence, it was considered that the current proposals in the Section 1 Plan were sound and that the Inspector's concerns would be addressed.

The NEAs had also compiled a table of proposed amendments to the Section 1 Plan. These would address matters which had been identified during the Plan process to date and ensure that the Plan would meet the test of soundness.

If each of the NEAs approved the Additional Sustainability Appraisal, all of the additional new evidence base documents and the table of proposed amendments, the Plan would be published for public consultation for six weeks between 19th August and 30th September 2019. Following this, the documents together with any representations submitted would be forwarded to the Inspector to enable him to resume the examination process. It was expected that further examination hearings would take place in late 2019, or early 2020.

In an update to the Agenda report, it was stated that the references to 'square metres' of employment space in paragraph 5.12 should be amended to 'hectares'. This alteration would be included in the table of proposed amendments to the Plan.

DECISION: That it be **Recommended to Council** that:-

- a) The additional evidence base documents summarised within the report be accepted as part of the evidence base for Section 1 of the submitted Local Plan, which contains strategic planning policies and proposals common to the North Essex Authorities of Braintree, Colchester and Tendring.
- b) It be noted that the evidence base confirms the need for the infrastructure contained in the current Housing Infrastructure Fund (HIF) Bids submitted by Essex County Council with regard to the North Essex Garden Communities and as currently being considered by Government, and that the Councils would expect a decision on those Bids before submitting further evidence to the Secretary of State under recommendation (g) below
- c) The findings of the Additional Sustainability Appraisal work, which appraises the submitted Local Plan strategy for three cross-border Garden Communities and the reasonable alternatives to such strategy, be approved.
- d) It be agreed that the Additional Sustainability Appraisal work and evidence base (including the additional evidence) supports the existing spatial strategy for growth in the submitted Local Plan proposing three cross-border Garden Communities and that it is justified as being the most appropriate strategy.
- e) The schedule of proposed amendments to the submitted Local Plan be approved.
- f) A six week period of public consultation on the schedule of proposed amendments, the Additional Sustainability Appraisal work and the additional evidence base documents be undertaken, starting on 19th August 2019 and ending on 30th September 2019.
- g) Following the period of public consultation, the schedule of proposed amendments, the Additional Sustainability Appraisal work and the additional evidence base documents along with any duly-made representations received during the consultation period, be submitted to the Secretary of State to enable the Local Plan Inspector to resume and complete the examination of the Section 1 Local Plan.
- h) The Local Plan Inspector be requested to recommend any further modifications to the Publication Draft Local Plan, as necessary, in order to make it sound.

During the course of their discussions, Members moved, seconded and agreed, as required by the Constitution, that the meeting be extended beyond 9.00pm to enable all business on the Agenda to be transacted.

The meeting commenced at 6.00pm and closed at 9.08pm.

Councillor Mrs G Spray (Chairman)