

**North Essex Authorities
Shared Strategic (Section 1) Plan**

Further Examination Hearings, January 2020

Hearing Statement on behalf of Mike Lambert FRSA MRTPI

Matter 5: Delivery Mechanisms, Wednesday 15th January 2020

Questions for all Participants:

5(a)how will the NEAs be able to ensure through DM powers that any GC proposal ...meets all their policy aspirations for the GCs?

Regardless of whether the Delivery Vehicle is private or public the NEAs will need to ensure that there is a very detailed DPD for all three sites in place before considering and determining any planning applications or entering into negotiations for s106, especially against a background of no CIL. It is already clear from the representations submitted by the promoters of West Tey that in order to demonstrate viability their first phase will include no more than the minimum in the way of additional infrastructure. This is not 'Infrastructure First'.

Given the evidence that delivery will be starting late in the Plan period the NEAs will be under increasing pressure, including potential s78 appeals, to release land for housing development within the GC boundaries. Without a very detailed DPD that amounts almost to a master plan in terms of land use, infrastructure, phasing and delivery there is a very real risk that development will be piecemeal and lacking in co-ordinated delivery that will fail to deliver the GC principles and result in an unsatisfactory form of development. This Master Plan will need to have statutory status in order to be used to resist non-conforming development. The amount of work to complete three DPDs at this level of detail to protect existing and future communities will take significant resources and time. As highlighted in my Statement for Matter 4, it is questionable whether this can be prepared in a form that allows for alternative public or private delivery vehicles or whether it will need to await a decision on how the GCs are to be delivered.

The uncertainty that currently exists creates significant risk for projects of this scale and complexity will at best result in major delay and at worst a form of development that fails to meet the aspirations. In the absence of certainty the policies for the GCs must be unsound.

5(b) ..do any further amendments need to be made to Policy SP7....?

As drafted Policy SP7 does not provide sufficient weight or certainty to ensure the risks outlined above under Q5(a) can be mitigated to enable the Plan to be found sound. There is no clear process or mechanism to indicate to the Inspector, the public, land owners or developers as to how the issue of delivery is to be resolved and over what timescale. This will leave ambiguity for decision makers that is likely to increase the risk of piecemeal or unsatisfactory development

5(c) Should the Section 1 Plan instead specify that delivery of the proposed GCs should be led by a public sector LDV, a LLNTDC or a private sector developer

In the absence of any certainty on the public sector Delivery Vehicles, if the Plan is to be found sound it can only assume that the DV will be privately led. As suggested above without a clear process and mechanism, together with a timetable, through a detailed DPD that sets down how the NEAs' aspirations for the GCs can be achieved this represents a major risk and amounts to an

Unsound Plan. Equally to simply leave the Policy SP7 open ended with no clear route for delivery is also unsound and creates further risk to the Plan's delivery within the current Plan period. The evidence suggests that the risks of this uncertainty on sites of this scale and magnitude amount to a level of risk that in itself makes the Plan unsound.

6(a) Would the existence of a viable master developer with control over the land allocated for a garden community restrict the ability of the SoS to confirm a CPO on that land ...?

This would require a legal opinion to answer fully but the principle that the 'Scheme' can only be delivered by the public sector through control of the land could clearly be challenged on all three GCs given the legal position of the promoters who will all seek to demonstrate they can deliver the Plan. The only way this could be prevented would be to have a DPD (or Planning Permission) in place that clearly precludes the possibility of any private developer from being able to deliver the 'Scheme'. Such a DPD would be hotly contested through Examination and probably through the Courts, especially if it sought to demonstrate the Scheme was only deliverable through an unrealistically low land value at close to existing use value.

6(b) If so, what are the implications for delivery of the GCs in accordance with the NEAs policy aspirations

As highlighted above the most robust and detailed DPD would need to be in place before any decisions could be made on any planning applications, including the principle terms of any s106 agreement and the consequential financial obligations on the master developer – private or public.

Given the risks set out in this Statement, and my Hearing Statement for Matter 4, the evidence suggests that it is unsound for the principle of any of the GCs to be established through this Plan. At most they should be highlighted as policy aspirations for a future DPD that will consider the principles of deliverability and viability once there is certainty that the GCs can be developed in a way that meets those aspirations.

If principle of all or any of the GCs is established through this Local Plan without the necessary certainty, it will be difficult if not impossible to prevent development on all or part of the GCs, and under current NPPF guidelines there is a real risk the GCs aspirations can be set aside if it can be demonstrated that the NEAs are failing to deliver housing numbers.

On balance the evidence on both overall delivery and build out in the Plan period, together with the complete uncertainty as to how the GCs might be delivered, reinforces the initial view that the Plan and the proposed inclusion of 43,000 homes on three Garden Communities is unsound.

Mike Lambert FRSA MRTPI
2th November 2019