

## **MATTER 5:**

# **DELIVERY MECHANISMS**

**North Essex Authorities Shared Strategic (Section 1) Plan –  
Further Hearing Sessions**

**SUBMITTED ON BEHALF OF L&Q, CIRRUS LAND LIMITED, AND  
GATEWAY 120**

December 2019



**Contents**

1 Introduction..... 5

2 Matter 5: Delivery Mechanisms ..... 6

    Q5(a) – If the Section 1 Plan is neutral as regards who will be responsible for leading delivery of the proposed garden communities, how will the NEAs be able to ensure through their development management powers that any garden community proposal that comes forward meets all their policy aspirations for the garden communities? .....6

    Q5(b) In this regard, do any further amendments need to be made to policy SP7 paragraph 3 (beginning “The Councils will need to be confident ...”) and/or to policy SP7 criterion (ii)? .....7

    5(c) Should the Section 1 Plan instead specify that delivery of the proposed garden communities should be led by a public-sector local delivery vehicle, a Locally Led New Town Development Corporation, or a private-sector developer? .....8

    6(a) Would the existence of a viable alternative master developer with control over land allocated for a garden community restrict the ability of the Secretary of State to confirm a CPO on that land (see paragraphs 8.10-8.11 of the consultation response to EB/084 from Carter Jonas on behalf of L&Q, Cirrus Land Ltd and Gateway 120)? ..... 8

    6(b) If so, what are the implications for delivery of the garden communities in accordance with the NEAs’ policy aspirations? ..... 10



## 1 INTRODUCTION

- 1.1 This statement has been prepared on behalf of L&Q, Cirrus Land Limited, and Gateway 120, who together form the West Tey Partners behind the majority landholdings within the Colchester Braintree Borders Garden Community (CBBGC).
- 1.2 This Statement is made following the re-opening of the Examination into the North Essex Authorities ('NEAs' or 'the Councils') Shared Strategic (Section 1) Plan. We note and approve of the scope of examination hearings as detailed by yourself in the 'Matters, Issues and Questions'. This Statement covers those questions posed within Matter 5 – Delivery Mechanisms, we reserve comment at this time on questions relating to State Aid.
- 1.3 The West Tey Partners have been active participants throughout the Examination of the Section 1 Plan, working with the NEAs where appropriate to demonstrate the deliverability of CBBGC in line with the principles established by the North Essex Garden Community Charter, reflected in draft policy, and echoed throughout our promotion of the site.
- 1.4 In promoting West Tey, we appreciate that this land does not comprise the entirety of the 'Area of Search' included within the Plan for a new garden community. Furthermore, whilst our capacity study work has shown land being promoted capable of accommodating approximately 17,000 homes as part of a comprehensive new community in line with the principles set by the NEAs, it does not amount to the full 24,000 homes stated as the top-end of draft policy.
- 1.5 Accordingly, what we are promoting has, in places, differences to that put forward by the NEAs. Despite this, it remains true that the proposals promoted by the West Tey Partners would deliver a garden community within the development parameters, and to the quality of that sort in draft policy.
- 1.6 Where amendments have been proposed to policy, this is to ensure accordance with national policy and provide sufficient comfort that should critical infrastructure not be delivered, the proposed garden community remains to a sustainable scale.
- 1.7 We continue to work productively with the NEAs and NEGC Ltd to bring forward a new garden community at West Tey.

## 2 MATTER 5: DELIVERY MECHANISMS

**Q5(a) – If the Section 1 Plan is neutral as regards who will be responsible for leading delivery of the proposed garden communities, how will the NEAs be able to ensure through their development management powers that any garden community proposal that comes forward meets all their policy aspirations for the garden communities?**

2.1 The planning system is plan-led<sup>1</sup>, Section 38(6) the Planning and Compulsory Purchase Act 2004 requires that “*where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise*”. This is reflected within the presumption in favour of sustainable development in both the 2012 and 2019 NPPFs, where paragraphs 14 and 11 respectively state that for decision-taking, the presumption applies by approving development proposals that accord with the development plan.

2.2 There are a number of forms in which the garden communities could be bought forward, these include but are not limited to:

- Planning applications submitted by NEGC Ltd in isolation or in partnership with private sector party or parties;
- Planning applications submitted by the NEAs in isolation or in partnership with private sector party or parties;
- Planning applications submitted by private sector party or parties.

In any of these scenarios a decision is made in accordance with the development plan, unless material considerations dictate otherwise, produced and adopted by the NEAs or a development corporation that has been accorded plan-making powers.

2.3 An alternative scenario under consideration by the NEAs is for an LDO to be produced and submissions to be made subsequently in accordance with this. As per the above, the LDO would be produced and owned by the NEAs or Development Corporation.

2.4 The proposals will be approved in accordance with policies adopted in the Section 1 Local Plans as well as subsequent site specific DPDs, all produced and then regularly reviewed by the NEAs at least every five years<sup>2</sup>.

---

<sup>1</sup> NPPF 2019 paragraph 15.

<sup>2</sup> As required under paragraph 33 of the NPPF.

- 2.5 Given the length of the delivery programme, it will be important to ensure that policies at this stage remain sufficiently strategic in level, allowing the principles to be secured at this point, but allowing subsequent detailed submissions to be required to provide sufficient detail to accord with policies that have evolved over time. In this way, the NEAs will maintain control over the proposal over the lifetime of its delivery, significant in the event that standards had significantly changed since the original creation of policy.
- 2.6 It would be wrong to assume that having a public sector body leading delivery would result in greater certainty in meeting policy aspirations as were delivery led by a private sector body. Whilst the NEAs, and NEGC Ltd through the NEAs are currently showing great leadership in championing the delivery of garden communities to the standards promoted, each local authority is subject to the risk of a change in both personnel and political party control<sup>3</sup>. In many events, the opposition parties that then take control of the Council had run on a platform that was contrary to the development secured in adopted and/or emerging planning policy.
- 2.7 Furthermore, it has been seen through the development arms of numerous Councils that have been established and active in recent years that they act under similar motivations to that of a private or third party developer. Research by the TCPA found that achieving a financial return was rated highest among councils as the reason for establishing new local housing companies, with over 70% stating this as a motivation<sup>4</sup>.
- 2.8 Accordingly, it is clear that creating well-formed policies and keeping these up-to-date is the best way of guaranteeing the development comes forward in line with policy aspirations.

**Q5(b) In this regard, do any further amendments need to be made to policy SP7 paragraph 3 (beginning “The Councils will need to be confident ...”) and/or to policy SP7 criterion (ii)?**

- 2.9 Our Technical Consultation representations detailed the need to remove reference to “*deploying new models of delivery where appropriate and*” from policy SP7 criterion ii, in light of your prior findings and for the reasons we detail above.
- 2.10 On reflection, the entirety of the open sentence to criterion ii represents an unclear and overly burdensome addition to the policy. The Delivery Partners strongly support the principles proposed at a-c but see no reason why the introductory text would be needed in light of the policy being made to be delivery neutral.

---

<sup>3</sup> Braintree District Council holds full Council elections every four years with Colchester Borough Council electing in thirds, three of every four years.

<sup>4</sup> How can councils secure the delivery of more affordable homes? New models, partnerships and innovations | TCPA and Nationwide Foundation | November 2017

- 2.11 Furthermore, paragraph 3 of policy SP3 would also need to be amended in order to remain delivery neutral.
- 2.12 As detailed above, the inclusion of “*public ownership*” would not necessarily provide greater guarantee to the delivery of a policy compliant development. A more generic text requiring the proposed development to accord with these principles would be sufficient and more over-reaching. This would mean that the principles can be secured through planning agreements, obligations, or through the proposed details of the application itself. For example, the sequencing of infrastructure (criterion iv) may be detailed through an approved Infrastructure Delivery Plan secured by condition, and high quality design would be secured through approved plans and/or a Design Code, not a legal agreement, obligation or public ownership. We provide some suggested text to replace paragraph 3 below:

*“In granting any consent, the following requirements would have been met”.*

- 2.13 The reference to a “*local infrastructure tariff*” is assumed as a reference to the potential funding mechanisms for a rapid transit system (RTS). As we detailed in our Technical Consultation representations, the Delivery Partners support the NEA’s aspirations for an RTS and will help support its delivery. However, this remains a regional project and not something that is required to deliver CBBGC, nor justify it as a sustainable location for significant growth.
- 2.14 It may therefore be a requirement to soften the language of criterion vii, referencing the need to safeguard for the potential to provide and connect into RTS networks.

**5(c) Should the Section 1 Plan instead specify that delivery of the proposed garden communities should be led by a public-sector local delivery vehicle, a Locally Led New Town Development Corporation, or a private-sector developer?**

- 2.15 As is detailed above and in our Technical Consultation representations, there is no need, and indeed it would be overly restrictive to specify any one of the above delivery mechanisms within policy.

**6(a) Would the existence of a viable alternative master developer with control over land allocated for a garden community restrict the ability of the Secretary of State to confirm a CPO on that land (see paragraphs 8.10-8.11 of the consultation response to EB/084 from Carter Jonas on behalf of L&Q, Cirrus Land Ltd and Gateway 120)?**

- 2.16 We stand by the statements within our Technical Consultation representations but wish to highlight that these are made in the unique context of the Delivery Partners and what they are capable of delivering, we remain supportive of the ability for the NEAs and/or NEGC Ltd (in the form of a



locally-led new town development corporation) to utilise CPO powers to aid the delivery of CBBGC and/or in the delivery of the other two garden communities.

2.17 Paragraph 144 of the referenced guidance states:

*“144. What does the Secretary of State have to consider where there are other proposals for the use of land contained within a compulsory purchase order?”*

*Where objectors put forward alternative proposals for the use or development of land contained within a compulsory purchase order, factors that the Secretary of State can be expected to consider include:*

- *whether these alternative proposals are likely to be implemented, taking into account the planning position and their promoter’s track record of delivering large-scale housing development*
- *how the alternative proposals may conflict with those of the new town development corporation*
- *how the alternative proposals may, if implemented, affect:*
  - *the delivery of a new town on land designated for that purpose; and*
  - *the new town development corporation’s ability to fulfil its statutory objects (including in relation to achieving sustainable development and good design), and/or the purposes for which it was established.”*

2.18 We have continuously emphasised the ability and track record of L&Q in delivering large-scale housing developments, often in circumstances where the need for infrastructure delivery has stalled the overall project<sup>5</sup>.

2.19 Paragraph 144 of the guidance is clear that where there is a proven promoter, who is proposing to deliver development in line with that of the new town development corporation (i.e. in line with the policies of Section 1 Plan and subsequently prepared policies), then it cannot be deemed that CPO is justified as in the public interest.

2.20 As stated above, we consider the Delivery Partners a unique situation, combining the land being promoted with a proven delivery body. Each garden community will require its own approach to

---

<sup>5</sup> 10,800 homes at Barking Riverside and 3,600 homes at Beaulieu Park being examples where delivery under the prevailing house builder had stalled or ceased to start until L&Q’s involvement. We offer the Inspector the opportunity to visit either or both sites to see the proposals in person.

delivery, extensive use of CPO may be a requirement elsewhere, whilst CBBGC may only require a limited use of CPO or indeed, none.

- 2.21 Nor does our stance on the use of CPO prohibit alternative approaches that allows public sector control over site delivery. The Delivery Partners remain open to the possibility of partnerships or joint ventures, whether under the umbrella of a locally-led new town development corporation or otherwise.

**6(b) If so, what are the implications for delivery of the garden communities in accordance with the NEAs' policy aspirations?**

- 2.22 As detailed in our response to question 5, the delivery of a policy compliant garden community does not need to correlate with public sector ownership or control. The Delivery Partners share the aspirations of the NEAs, whilst having the track-record of delivery that such a project requires.
- 2.23 The planning system provides the necessary controls to allow the NEAs, or a locally-led new town development corporation under their oversight the ability to ensure that the policy aspirations are met.