

**North Essex Authorities Section 1 Local Plan  
Resumed Hearings  
Statement to Matter 5: Delivery Mechanisms  
and State Aid  
On behalf of Parker Strategic Land**

December 2019

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**Client**  
Parker Strategic Land

**Our reference**  
MATS3000

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# 1. Introduction

- 1.1 This Statement has been prepared behalf of Parker Strategic Land in relation to the shared Section 1 Local Plans for Braintree District Council ('BDC'), Colchester Borough Council ('CBC') and Tendring District Council ('TDC'), which are collectively referred to as the North Essex Authorities ('NEAs').
- 1.2 This Statement responds to the Inspector's Issues and Questions (Document IED019) for Matter 5 (Delivery Mechanisms and State Aid) of the resumed Examination hearing sessions.
- 1.3 Parker Strategic Land has major land and development interests in Braintree District at Kelvedon, and in Colchester, and therefore has a significant interest in the Section 1 Local Plan.
- 1.4 In particular, Parker Strategic Land is promoting an area of approximately 468 hectares located to the north west and south west of Kelvedon on land within Braintree District. This land is primarily located to the north of the existing railway line with the exception of an area between the railway line and the A12. The land extends from the A12 south of the railway line and includes land between Oak Road and Cranes Lane. To the north of the railway line, the site extends from Cranes Lane in the south west to Coggeshall Road to the north east.
- 1.5 This Statement should be read alongside the representations submitted on behalf of Parker Strategic Land to the Section 1 Local Plan Technical Consultation on 30<sup>th</sup> September 2019. Those representations were supported by a range of material which set out concerns regarding the nature of the Section 1 Local Plan, the suggested amendments and the material prepared in support of the Plan. In addition, the representations submitted on behalf of Parker Strategic Land set out the case in support of the identification of Kings Dene, Kelvedon as a location for growth.
- 1.6 In addition, this Statement should be read alongside the Statements submitted on behalf of Parker Strategic Land to other Matters to be considered during the resumed Examination hearing sessions.
- 1.7 Parker Strategic Land's response to Matter 5 is set out in Section 2 of this Statement.
- 1.8 From a procedural perspective, Parker Strategic Land acknowledges that the submitted Plan is that which is being examined. Whilst the NEAs have prepared a set of 'suggested amendments', we understand that any Main Modifications will need to be subject to further consultation.

## 2. Response to Matter 5: Delivery Mechanisms and State Aid

### Delivery Mechanisms

**5. (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 We consider the matter of development management to primarily represent a point for the NEAs to address.
- 2.2 However, as presently drafted, paragraph 8.11 of the Section 1 Plan and policy SP7 criterion (ii) does not support a neutral stance. Instead the drafted policy requires, *“The public sector working pro-actively and collaboratively with the private sector to design, and bring forward these garden communities”*.
- 2.3 At minimum this represents a joint-venture style arrangement between the public and private sectors, rather than a neutral or ‘passive’ stance.
- 2.4 The actual intention of the NEAs clearly remains for the public sector to lead delivery using a Local Delivery Vehicle (‘LDV’), via North Essex Garden Communities Ltd (‘NEGC’) under a Locally Led New Town Development Corporation (‘LLNTDC’), as is set out within paragraphs 10-15 of the NEA’s Position Statement on Delivery Mechanisms – July 2019 (EB084), which makes it clear that an LLNTDC represents the NEA’s preferred model.
- 2.5 This is contrary to the position set out by the promoters of the GCs in submitted representations. For example:
  - Carter Jonas acting on behalf of L&Q, Cirrus Land Limited and Gateway 120 whom are jointly promoting the Colchester Braintree Borders Garden Community (‘CBBGC’ or ‘West Tey’) and advocating a promoter-led master-developer delivery structure (EB/084/15); and
  - WYG acting on behalf of Galliard Homes Ltd / Andrewsfield Consortium whom are jointly promoting the West of Braintree Garden Community (‘WBGC’) and advocating developer-led delivery. They go as far as to state that the NEA’s proposed approach to delivery would add *“about 2 years to the delivery timetable before development could be commenced”* (EB/084/5).
- 2.6 As per our representations submitted on behalf of Parker Strategic Land to the NEA’s Shared Strategic (Section 1) Plan in September 2019, this draws into sharp focus the distinct lack of clarity as to the mechanism by which the GCs are to be delivered and an absence of genuine partnership or agreement between the NEAs and GC promoters.

- 2.7 This must have significant timescale implications in respect of implementing prospective governance structures, funding, land assembly, and preparation of GC site-specific guiding Development Plan Documents (DPDs). It is notable that granting of planning permission would be expected to be deemed premature by the NEAs, under draft policy within the Section 1 Plan, if planning applications are submitted prior.
- 2.8 Crucially, resolution of such matters between the NEAs and land promoters/owners will be time consuming could represent a very significant delay to delivery of development on the GCs, which would be expected to substantially impact on volume of dwellings delivered within Plan period.
- 2.9 To date this issue has not been addressed or resolved by the NEAs and we would invite the Inspector to consider the implications of this on the soundness of the Section 1 Plan.

**5. (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)?**

- 2.10 Yes.
- 2.11 However, as per our response to Question 5 (a), it is firstly necessary for the provision of clarity and evidence by the NEAs regarding the composition and function of potential delivery bodies and mechanisms to deliver the GCs. The mechanism by which the GCs are to be delivered remains to be confirmed, and is disputed by the promoters and landowners presently controlling land interests in the prospective GC’s, meaning considerable uncertainty remains, which will undoubtedly take time to resolve.

**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?**

- 2.12 No.
- 2.13 As per our responses to 5 (a) and 5 (b), simply altering draft policy SP7 paragraph 3 and criterion (ii) to widen the breadth of options available avoids resolving the fundamental issue of the deliverability of the GC’s in accordance with the other criterion in draft policy SP7 and other relevant policies within the Section 1 Plan.
- 2.14 The ‘topic paper’ provided by the NEAs (which is assumed to comprise the document titled North Essex Authorities’ Position Statement on Delivery Mechanisms as published in July 2019 [EB/084]) fails to provide the requisite clarity and evidence.
- 2.15 As was set out clearly within the Inspector’s letter to the NEA’s dated 8<sup>th</sup> June 2018 (IED001) there is a requirement for the NEAs to present, on an evidenced basis, the options for the composition and function of potential delivery bodies and mechanisms to deliver the GCs. Options should be assessed and tested, with this evidenced published, to provide a clear and transparent route to delivery for each of the GC’s. This should provide details regarding governance, the funding, timescale and agreements for land assembly, infrastructure delivery programme and funding, and an overarching delivery and build out programme. Such up-to-date evidence does not exist, and there appears to be limited or no support from the GC’s promoters/landowners for the NEA’s existing proposed approach.

2.16 Alteration of the draft policy within the Section 1 Plan to avoid dealing with this failure from the NEAs to evidence its policy proposal, and to garner support from the GC promoters to reach agreement, would be unsound. It could not provide the necessary certainty that the GCs are deliverable – and particularly not in the timescale (and at the rate of delivery) proposed by both the NEAs and promoters (which itself is presently inconsistent).

**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)?**

2.17 Yes.

2.18 The MHCLG publication titled Guidance on Compulsory purchase process and The Crichel Down Rules (July 2019) clearly states at paragraph 143 (bullet 4) that the Secretary of State ('SoS') will take account of "*the appropriateness of alternative proposals (if any) put forward by the owners of the land or other persons*" in determining whether to confirm a compulsory purchase order under section 10 of the 1981 act.

2.19 Further explanatory guidance is provided within paragraph 144. It states that if an alternative objecting party, with control over the land allocated for a GC, could demonstrate to the satisfaction of the SoS that the alternative proposals would be likely to be implemented (based on a robust track-record), that the proposals were suitably progressed in planning terms, and that the proposals did not undermine the statutory objects of the LLNTDC, then this would influence the consideration of the SoS as to whether confirming a CPO was in the public interest.

2.20 The inference from the promoter of the CBBGC is that the current position at CBBGC (and potentially also in the case of the other GC's) is such that there is a high risk that the NEA's would be unsuccessful in an attempt to gain control of the land required to deliver the GCs under the proposed arrangements within the draft policies of the Section 1 Local Plan.

2.21 We note that there are also prospective wider funding, legislative and practical limitations that would prospectively restrict the ability of the NEAs to effectively utilise CPO to secure control of land required for the GCs, which other parties have passed comment upon<sup>1</sup>, and that are yet to be convincingly rebutted by the NEAs. One such crucial issue is the absence of modelling of the timing and cost implications of utilising CPO within the viability evidence base produced to date.

2.22 The raising of these fundamental issues at this late stage in the process of preparation of the Section 1 Plan again highlights the inadequacy of the NEA's existing evidence base underpinning the delivery of the GCs. It demonstrates that the NEAs do not have a sufficiently developed understanding of the mechanisms available for assembly of the land required to deliver the GCs, and are instead reliant on headline commentary of the nature of that set out within EB/084.

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<sup>1</sup> CAUSE (2019) North Essex Garden Communities Land Acquisition Strategy paper (ref: EB/084/9)

- 2.23 It also reiterates that lack of support from the promoter of the CBBGC for the delivery route set out within the Section 1 Plan, which instead advocates a promoter-led master-developer delivery structure (EB/084/15) that (at present) would fail to accord with drafted policies within the Section 1 Plan.
- 2.24 Such uncertainty regarding fundamental matters of delivery underlines why Parker Strategic Land maintains that the Section 1 Plan is unsound.

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

- 2.25 The primary implications will be the heightened prospect of the delay and dispute between the NEAs and promoters of GCs regarding the assembly of necessary land, funding of required infrastructure, granting of planning permission(s) and timely and comprehensive delivery of the GCs by the NEAs.
- 2.26 Paragraphs 14-15 of EB/084 set out a clear threat to the promoters/landowners of the GCs that if "*...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...*".
- 2.27 As per our response to question 6 (a), it appears the validity of the NEA's statements in EB/084 is now in question.
- 2.28 The NEA's own evidence of the financial viability of the GC's, as prepared by HYAS (EB/086/1-2 and EXD/058/1-2) indicates that the viable delivery of the GCs is at significant risk in the current market unless reliant upon land being acquired for development at (or near to) existing use value (EUV), grant funding is successfully secured, and there is substantive future growth in property values. This represents a high degree of risk and uncertainty.
- 2.29 If the NEAs cannot invoke a CPO it threatens the ability to ensure that land required for the GCs is transacted at (or near) to EUV. This, in turn, poses a risk that the drafted policy criterion for the GCs within the Section 1 Plan are 'diluted' or challenged through the planning application process – notably in respect of provision of affordable housing, wider community infrastructure and design standards.

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