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North Essex Authorities
Shared Strategic (Section 1) Plan

Further Hearing Sessions
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Hearing Statement

by

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on behalf of

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Livelands and David G Sherwood

Matter 7 – Viability

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MATTER 7 – VIABILITY

Q.10 (a) Should the 2019 Hyas VAU have applied a benchmark land value to the each of the GCs?

(b) If so, what should the benchmark land value(s) be?

1. The Representors agree that the 2019 Hyas VAU should have applied a benchmark land value (BMV) to each of the GCs, because there has to be a 'line in the sand' for viability testing. Without this Hyas and others are able to 'muddy the water' by suggesting that schemes will ultimately achieve viability without demonstrating the evidence. The requirement to demonstrate that schemes produce a RLV that matches or exceeds a target BLV is a fundamental principal within both the NPPF 2012 and NPPF 2019.

2. £100,000 per gross acre is considered to be appropriate at this stage of the emerging strategic Local Plan, but it should be intended to represent a whole scheme average bearing in mind the scenario where certain landowners have a fairly small land holding and these landowners inevitably require higher amounts to "come on board".

4. However, the Representors have raised specific concerns regarding the viability and delivery of the new GCs and the impact this could have on housing delivery during the early to middle years of the Plan period.

5. It is notable that the Viability Assessment Update (VAU) (June 2019) (EB/068 1/2), prepared by Hyas, concludes at paragraph 5.24 that:

   - Colchester Braintree Borders GC *"… is demonstrated to not generate sufficient land values under present day costs and values and without investment support to implement strategic infrastructure…"*. In other words this GC is 'unviable' at present. Even if significant Government 'grant' funding materialises for infrastructure, it will only achieve a residual land value in the region of £58,700 to £102,900 per acre, according to Figure 5.2.

6. These figures are concerning when set against the benchmark land value (BLV) (i.e. £100,000 per acre) quoted in paragraph 5.18 of the VAU – which itself sits at the bottom end of the circa £100,000 to £150,000 per acre range likely to be included in many option and promotion agreements in Essex – and the ongoing uncertainty regarding whether or not Government funding will be made available for the A120 dualling scheme and the A12 revised realignment near Marks Tey. The Harman report and NPPF both advise against local authorities assuming that sites will be delivered "at margins of viability", which would certainly be the case of this lower level of £100,000 per gross acre.

7. With regard to Q11 North Essex Garden Communities Ltd (NEGC) supplemented the VAU report with their own Local Plan Examination – Viability Evidence in September 2019, prepared by Avison Young. This suggests that the new GCs will be viable where the total cost of acquiring the necessary land and buildings is: £40m at West of Braintree; £41m at Tendring Colchester Borders; and, £76m at Colchester

Braintree Borders (see paragraph 17). However, when applied to the total site areas (contained in the VAU's Technical Appendices (EB/086 2/2), this results in an average land value of:

- **£23,627** per acre for the West of Braintree GC (i.e. £40m divided by 1,693 acres);
- **£39,122** per acre for the Tendring Colchester Borders GC (i.e. £41m divided by 1,048 acres); and
- **£26,288** per acre for the Colchester Braintree Borders GC (i.e. £76m divided by 2,891 acres).

8. In our main September representations on the VAU at para 8, we note that some of the local authorities own viability guidance support BLV of at least £100,000 per gross acre. For example BDC's 2015 Affordable Housing Viability Assessment refers to DCLG's study on the Cumulative Impact of Policy Requirement (2011) that suggested that a figure of £100,000 to £150,000 per gross acre "*is a reasonable benchmark for greenfield land*." CBC also received viability advice in relation to its 2017 local plan affordable housing requirements. Para 27 of this viability study states: *"We have looked at a range of methods to arrive at benchmark land values starting with generic agricultural land value for the borough of £24K per hectare which, when multiplied up by 10 – 20 times gives a greenfield land value of between £240,000 and £480,000 [£97,000 - £194,000 per gross acre], giving an indication of values for large greenfield sites. In Colchester Borough where the housing market is relatively buoyant we have tended towards the upper end of this benchmark. <u>On very large sites, such as the Garden Communities (which are not considered in this study) land will clearly transact towards the lower end</u>"* (our emphasis).

9. Clearly it is wholly unrealistic to expect landowners to sell their land for development purposes for the values set out in paragraph 4 above – which in the case of West of Braintree and Colchester Braintree Borders is barely double existing agricultural values[1]. Therefore, the Avison Young work has been prepared on the basis that land will be acquired at close to existing use values, via Compulsory Purchase Order (CPO) and through the delivery vehicle of a Locally-Led Development Corporation.

10. However, using CPO powers to try to acquire in excess of 5,600 acres of land and buildings will be an extremely costly and time consuming undertaking, unprecedented in Essex in recent times. Furthermore, Avison Young's suggested approach – i.e. to acquire development land after the adoption of a local plan at close to existing use value, when many landowners could have option or promotion agreements in place with developers for circa £100,00 to £150,000 per acre and are keen to bring forward their land for development themselves – is probably unlawful and is highly likely to result in rejected CPOs. The legal obstacles that the NEAs and NEGC will face if they pursue this approach are set out in detail in Martin Edwards's Legal Opinion (CAUSE Paper 18, appended to their Summer 2019 further evidence). This recognises the need to consider 'hope value' in any CPO, as well as the potential for others to carry out the intended development themselves.

[1] Page 23 of The Rural Report 2019, by Knight Frank, estimates agricultural land values to be approximately £8,500 to £12,000 per acre in the East of England.

11. It is certainly the case that land nearest to Marks Tey station and the mixed use area of London Road does have existing 'hope value' even in the 'no scheme world,' which would greatly exceed the average value of £26,288 per acre referred to above. It is also a matter of fact that the land being promoted by Crest Nicholson is subject to an agreement between the parties based on realistic market values that are much higher than the Avison Young average values, but based on sound valuation practice and viability assessment. Consequently the sustainable urban extension (Phase 1) of around 1,000 units and other uses is considered by both the landowner and promoter to be viable and deliverable.

12. In summary, the further evidence made available in recent months appears to demonstrate that:

(i) two of the three new GCs are unviable by any normal measure of a benchmark land value and only become viable with significant Government 'grant' funding for infrastructure, which may or may not be made available; and

(ii) there is an underlying assumption that land will be acquired at close to existing use values via CPO, when in reality this is probably unlawful and is highly likely to result in rejected CPOs.

13. As a result the GCs are not demonstrably 'deliverable' and the shared Section 1 Plan is still not 'effective' in accordance with paragraph 182 of the NPPF (2012). Therefore, other options need to be considered, either to 'pump prime' the GCs or as standalone sustainable urban extensions, for example as proposed by the Representors for approximately 1,000 homes to the south of Marks Tey. Such a proposal would still allow for the garden community aspirations to be achieved when the necessary funding for the major strategic infrastructure becomes available.

14. The NEAs are now proposing to reduce the quantum of development to be delivered in the CBBGC from 2,500 homes to 1,350 in the plan period (suggested Amendment Ref 70 EB/091). We can find no evidence for this reduction but it will clearly affect viability and the potential funding and range of infrastructure that 1,350 homes could support. Furthermore, this quantum appears to have been selected on a random, non-evidence based approach rather than consideration of an appropriate level of proportionate growth at Marks Tey. A more robust and credible approach would be to test the level of growth that could be supported by optimising the use of current infrastructure including highway capacity, with any necessary viable local enhancements, before the major strategic infrastructure, eg. the A12 and A120 realignment, and other 'big picture' items are delivered. Both the Representors and the Promoter of West Tey consider that there is sufficient spare capacity, with localised road and other improvements to the existing infrastructure, to deliver around 2,500 homes in the Plan period prior to the delivery of the A12 and A120 upgrades. The proposed southern urban extension to Marks Tey would also provide opportunities to enhance pedestrian and cycle connectivity to Marks Tey station and local bus services, as well as to boost trade for local retail and service facilities. There are many examples of schemes in the range of 2,000 – 2,500 homes that demonstrate that this level of growth can deliver a wide range of facilities and local benefits, including 2 to 3 primary schools, neighbourhood shopping, community, recreation and leisure facilities and smaller scale employment opportunities.

15. A phased increment of c. 2,500 at Marks Tey that provides a range of community facilities to both the existing and new residents in the plan period would provide a firm foundation for potential longer term growth when investment and funding opportunities can be secured for the larger scale GC. There is no reason why such a smaller scale scheme cannot be planned on GC principles. Additionally the proposed DPD could be drafted to ensure that policy safeguards land for the necessary infrastructure and strategic highway improvements so that the early phases do not prejudice the longer term potential. Strategic CIL and s106 obligations can be used to capture contributions from the early phases to fund both site specific and strategic infrastructure to come forward to service the wider aspirations. This would also not necessitate the public purse in CPO and the monies saved could be used and channelled into other infrastructure projects.

Q.11 (a) Does any of the other viability appraisals submitted to the examination provide a more reliable assessment of the GCs viability than the 2019 Hyas VAU?

(b) If so, what are the key differences in the method(s) and inputs employed in that other appraisal which make it more reliable?

16. Crest Nicholson and RF West Ltd do not consider that any of the other viability appraisals submitted to the examination provide a more reliable assessment of the GC's viability than the 2019 Hyas VAU. For example, with regard to the Avison Young assessment submitted by NEGC Ltd, the above Representors take the view that one of the key points from the AY analysis is that they have adopted extremely low IRR profit returns to the promoter – at just <u>3.6%</u> and only then could they get the schemes to 'stack', with their appraisal producing an outturn land value not far above agricultural use value – which they believe could be paid using CPO powers.

17. The AY analysis also shows the land being acquired 'on the drip' which was a fundamental criticism made by the Inspector in relation to the original Hyas assessment.

18. With regard to the Savills' assessment for West Tey, the key points are that the scheme is only just borderline viable with a RLV of £110k versus a target BLV of £100k – but this RLV is reached reflecting:

1. A residential coverage of 21,035 ft2 per NDA – which is considered to be way too high
2. Affordable values averaging 63% of OMV
3. Standard construction costs of just £126 per ft2 (which clearly do not reflect a high density scheme), and
4. Finance costs equivalent to just 2% of scheme GDV – which is patently insufficient for a volume strategic site of this nature, with enormous up-front costs associated with land assembly and infrastructure.

As a result, any 'corrections' to the above identified inputs would quickly result in a scheme that is shown to be financially non-viable. A corrected version of the Savills' appraisal would show a scheme that appears <u>heavily</u> non-viable.