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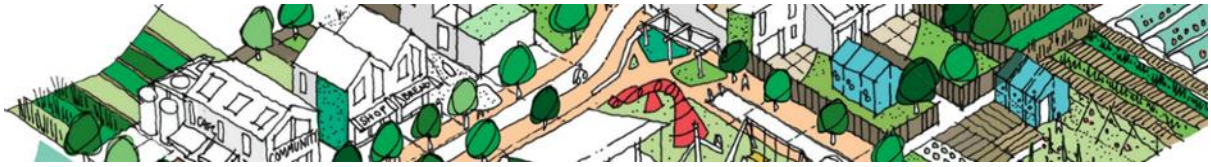

INDEPENDENT EXAMINATION

Tendring Colchester Borders Garden Community (TCBGC)
Development Plan Document (DPD)

HEARING STATEMENT – LOCAL PLANNING AUTHORITY

Main Matter 3 – Nature (GC Policy 2: Nature)

April 2024

Tendring District Council

Colchester City Council

1. INTRODUCTION

1.1 This document is Tendring District Council (TDC) and Colchester City Council (CCC) "the Councils" response to the Matters, Issues and Questions identified for examination by Inspector Graham Wyatt of the Planning Inspectorate, as published on 4 March 2024 (IC3). This is one of nine separate response papers produced by the Councils to address the specific matter and issue as identified on the front page.

1.2 Each response paper includes a number of references to specific evidence which has been relied upon in answering the matters, issues and questions. These reference numbers relate directly to the Examination Library website, where all evidence is published:

Tendring Colchester Borders Garden Community Development Plan Document: Examination Library | Creating a Place for Life (tcbgardencommunity.co.uk)

1.3 As a result of a full and comprehensive review by the Councils of all Regulation 19 representations, and following positive and cooperative engagement with statutory bodies and stakeholders through Statements of Common Ground (SoCG), a series of modifications have been recommended to the DPD Policies and supporting text. Where relevant these modifications are referred to throughout the Councils' Hearing Statements and a full schedule can be found in the 'Schedule of Modifications' (CC4).

2. RESPONSE TO INSPECTOR'S QUESTIONS

Main Matter 3 – Nature (GC Policy 2: Nature)

Is the Policy justified by appropriate available evidence, having regard to national guidance and local context?

2.1 Yes, the GC Policy 2 is justified by appropriate available evidence, having regard to national guidance, and local context. The DPD recognises that the outdoor natural environment of the Garden Community will be its biggest asset. It seeks to provide green infrastructure where neighbours will spend time, play, interact and grow, whilst providing a natural support system for both people and wildlife.

2.2 Paragraph 174 of the NPPF (2021) states that planning policies should contribute to and enhance the natural and local environment by "protecting and enhancing valued landscapes" and *"minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".*

2.3 Section 1 Plan Policies SP6, SP7, SP8 and SP9 include requirements intended to ensure sufficient provision for nature with the Garden Community. These include protection and enhancement of designated sites of national and international importance, a network of multi-functional green (and blue) infrastructure including provision for nature, community parks, allotments and sport and recreation, connectivity of existing and new green corridors for the benefit of communities and nature and the incorporation of biodiversity enhancement and net gain.

2.4 GC Policy 2 is justified by appropriate available evidence and a range of technical studies which have considered issues relating to nature, biodiversity and open space, having regard to national guidance and local context. The primary sources of evidence are as follows:

- 'Open Space, Playing Pitch, Outdoor Sports and Built Facility - Overarching Strategy' (EB9)
- Environmental Audit Review - Ecology and Nature Conservation (EB12)
- Environmental Audit Review - East Colchester Growth Area Option Environmental Audit (main report EB13 and figures EB14)
- 'Infrastructure Delivery, Phasing and Funding Plan' (EB17)

2.5 The various sources of evidence have come together as part of a strategic masterplanning process which has taken a landscape led approach to design and placemaking and which has drawn together material on the baseline context (EB4), the development of alternative design options (EB3) the articulation of an overall strategic vision (EB2), leading to the preparation of a final 'Strategic Framework Masterplan (EB1) which draws together all the previous work and wider work across the other relevant themes.

2.6 The Councils have prepared a Statement of Common Ground with Natural England (NE) (SGC05) which includes suggested modifications to the wording of GC Policy 2 which both parties have agreed to. These are referred to below under the relevant part of the Policy. The SoCG with NE confirms that there are **no unresolved issue or areas of uncommon ground**.

Part A: Green-Blue Infrastructure

2.7 GC Policy 2 Part A covers the requirements linked to the provision, enhancement and management of Green and Blue Infrastructure. The NPPF provides a steer for the planning requirements under section 8 on 'Promoting Healthy and Safe Communities' as well as section 15 on 'Conserving and Enhancing the Natural Environment'. The policy requirements under Part A take forward the strategic approach to maintaining and enhancing networks of habitats and green and blue infrastructure as outlined in Section 1 Plan Policy SP2 'Recreational disturbance Avoidance and Mitigation Strategy (RAMS)' and SP7 'Place Shaping Principles'.

2.8 Throughout the engagement process the Masterplan Engagement Programme Findings' (EB6) that fed into the preparation of the 'Strategic Framework Masterplan' (EB1), participants emphasised how important the natural world is. Highlighting the value of the nature to their family and social lives; their physical and mental wellbeing; and to the wider health of the community. The importance of protecting natural spaces to help build resilience to climate change also featured strongly.

2.9 From the outset the 'Strategic Framework Masterplan' (EB1) makes clear that the Garden Community will take a landscape led approach to development. The existing important landscape features of both green and blue infrastructure (ancient woodland, hedgerows) are identified within GC Policy 2 Part A as the structure around which the Garden Community will grow. Part A requires that proposal will need to include details of a green-blue infrastructure network and must demonstrate how all open spaces connect to this network.

2.10 A multifunctional green grid will create significant networks of new green infrastructure whilst simultaneously providing connectivity to existing corridors and enhance biodiversity. The 'Open Space, Playing Pitch, Sport and Recreation Study' (EB9) concludes that where appropriate, open spaces within the Garden Community should be looking to provide multiple

functions, including a network of pathways that travel in, out, across and through the Garden Community. This network can act as an active travel route for many users but also serve as a recreational feature and increase connectivity of green infrastructure.

2.11 GC Policy 2 Part A also sets out the requirement in respect of 'Suitable Alternative Natural Greenspace' (SANG). Natural England (NE) in their Regulation 19 representation (NE Reg.19 rep) noted that there was insufficient information within the wording of GC Policy 2 to confirm whether the 'NE SANG Guidance' can be met site wide and whether the policy requirement is deliverable. The Councils have continued to engage with NE on this matter through the SoCG (SGC05) which has resolved the outstanding concerns through suggested amendment to the wording of GC Policy 2 Part A. This has resulted in the inclusion of a suggested modification to include a new 'Part B - Suitable Alternative Natural Greenspace' agreed with NE and outlined within the 'Schedule of Modifications' (CC4).

Part B: Integrating Green and Blue (water) Spaces into Built Form

2.12 The 'Strategic Framework Masterplan' (EB1) identifies that natural flood risk management and carbon capture will be incorporated in the ecological network, simultaneously delivering multiple benefits. GC Policy 2 Part B requires that proposal should take every opportunity to integrate green and blue spaces and will be required to demonstrate how they have been integrated into the built form. This requirement links to points 4 and 5 of GC Policy 2 Part I 'Planning Application Requirements' which requires the submission of Drainage, SuDS and management Plans, and is taken forward in GC Policy 8 'Sustainable Infrastructure' which requires that the Garden Community will incorporate SuDS and water management systems which will be integrated into the green and blue infrastructure network.

Part C: Protection of Biodiversity and Part D: Biodiversity Net Gain

2.13 The approach to biodiversity and expected requirements are covered in GC Policy 2 Parts C and D. Part C focuses on protection and Part D on net gain. Both the national and local requirements rely on the same evidence and references. Section 1 Plan Policy SP8 acknowledges the importance of biodiversity protection, enhancement and connectivity.

2.14 Section 15 of the NPPF 'Conserving and enhancing the natural environment', has many core objectives seeking to protect biodiversity and ensure delivery of net gains as a result of development. Paragraph 174, criteria (a) requires planning policies and decisions to "protect and enhance biodiversity" and criteria (d) seeks "impacts to be minimised and net gain to be provided". Paragraph 179 goes on to set the expectations of plans in achieving protection and enhancement of biodiversity and paragraph 180 provides the principles for determining planning applications based on the mitigation hierarchy. These requirements are followed through in GC Policy 2 Part C, which sets out the requirements expected for proposals in seeking to protect biodiversity and Part D in providing for net gain. In terms of Biodiversity Net Gain (BNG), the provisions of the Environment Act 2021, now enacted, provides the legislative requirement and approach for achieving at least 10% BNG.

2.15 The national guidance and legislative requirements for this are reflected in GC Policy 2.

2.16 The 'Environmental Audit Review – Ecology and Nature Conservation' (EB12) and material set out in the 'Masterplan Baseline Report' (EB4) note that the Garden Community comprises mainly arable fields bordered by an extensive hedgerow network, which includes mature and veteran trees. There are significant woodland areas, including Ancient Woodland, along with

species-rich grasslands and wetland habitats such as streams, ponds, and swamps. It is recommended that these habitats, particularly those in these specific areas, are preserved and improved. The Garden Community has the potential to support various protected species and other species of conservation importance. As a landscape led development the ambition as stated in GC Policy 2 Part D is to achieve a higher BNG than the minimum legislative requirement of 10%. The Local Nature Recovery Strategy will work in tandem with biodiversity net gain and ensure the most appropriate habitats and species are located in areas that will encourage maximum ecological and environmental benefits.

2.17 Natural England (NE) in their Regulation 19 representation (NE Reg.19 rep) noted that the reference to the need for wintering bird surveys only features in the justification' section for GC Policy 2 and without specific reference there is scope for different interpretations at the application stage. The Councils have continued to engage with NE on this matter through the SoCG (SGC05) which has resolved the outstanding concerns through the suggested addition of wording to GC Policy 2 Part C. This has resulted in the inclusion of a suggested modification agreed with NE and outlined within the 'Schedule of Modifications' (CC4).

Part E: Tree Planting

2.18 Paragraph 131 of the NPPF recognises the important contribution trees make to the character and quality of urban environments. This sets some principles for planning policies and decisions including ensuring new streets are treelined, opportunities to incorporate trees elsewhere in the development such as parks and community orchards; appropriate measures to ensure long term maintenance of newly planted trees are in place; and that existing trees are retained wherever possible. In addition, the NPPF references the need for the Planning Authorities to work with the Highway Authority to ensure that the right trees are planted in the right places to ensure solutions are found which are compatible with the needs of different users and highway standards. GC Policy 2 Part E reflects these requirements in respect of retaining and protecting existing trees, taking opportunities to connect existing trees and woodland and incorporate planting throughout the development including to serve as a buffer alongside the road network.

2.19 The masterplanning approach leading to the preparation of the 'Strategic Framework Masterplan' (EB1) and development of policies for the DPD state that streets should be designed with tree planting and SuDS, this is to ensure that place shaping is led by the existing landscape. To strengthen the ecological connections across existing natural assets - the ancient woodland and existing network of hedges and trees on either side of Bromley Road, dense hedge/tree planting should lead up to the road edge. The east – west green corridor should include a woodland belt that allows sufficient width for tree planting.

Part F: Productive Landscapes

2.20 Productive Landscapes in the form of areas of land within a development which provide opportunities for food production such as allotments and orchards comprise an element of the holistic approach to Promoting healthy and safe communities. Paragraph 92 criteria (c) of the NPPF includes access to healthier food and allotments as a means to support healthy lifestyles through planning. The need for any such provision to be incorporated in layouts which encourage walking and cycling is also stated in the Framework. GC Policy 2 Part F contributes to promoting healthy lifestyles through providing for allotments throughout the

Garden Community which are to be well related to the residential area, and community spaces.

2.21 Allotments feature in the Section 1 Plan as an identified element of Community Infrastructure (Policy SP9 Part E). The 'Strategic Framework Masterplan' (EB1) highlights the need for productive landscapes, encouraging inclusive community design such as orchards, allotments, and growing fields. The 'Masterplan Baseline Report' (EB4) identified apple orchards as part of the landscape character around the villages of Ardleigh and Elmstead. Enhancing and protecting existing orchards whilst also looking to create new orchards provides potential for edible walkways, food production and delivers increased biodiversity. Aligning with the Local Nature Recovery Strategy will ensure that connectivity extends out from the existing green infrastructure on site - ancient woodlands and established hedgerows – to create extensive green corridors across the garden community.

Part G: Sustainable Drainage Systems and Blue Infrastructure

2.22 The NPPF and Planning Practice Guidance set out the requirements for the use of Sustainable Drainage Systems (SuDS) to minimise the risk of flooding from new development. Paragraph 169 of the NPPF states that major development should incorporate SuDS and what these need to achieve.

2.23 Section 1 Plan Policy SP7 ensures that flood mitigation measures are considered through design to enable multi-functional flood solutions. This is reiterated in GC Policy 2 Part B through the criteria which outlines considerations of SuDS and blue infrastructure. GC Policy 2 Part G provides the local context to ensure surface water flood risk is not increased on or off site as a result of development and complies with the NPPF.

2.24 Essex County Council is the Lead Flood Authority (LLFA) and the policy requirements were prepared in consultation with the LLFA, are underpinned by the CIRIA SuDS Manual and Essex County Council's SuDS Design Guide. The policy seeks to ensure good practice is achieved to manage surface water flood risk across the Garden Community.

2.25 The 'Strategic Framework Masterplan' (EB1) is clear that the SuDS have a significant role to play in the Garden Community and are a key element of integrating green and blue infrastructure into the built form. Early consideration should be given to the potential to use SuDS to identify when and where the use of such technologies is feasible and to also identify which type of SuDS is most appropriate to site conditions. Early design of SuDS will ensure sympathetic reflection of the surrounding landscape character. The 'Strategic Framework Masterplan' (EB1) highlights that SuDS help to prevent any increase in surface water flood risk, an important role in mitigating climatic changes. As noted in GC Policy 2 Part G, Essex County Council's SuDS Design Guide should be utilised along with recommended features such as permeable paving, swales and rain gardens to deal with water within development areas. SuDS ponds in open space must be designed to have both amenity and wildlife value, serving as a positive addition to the nature connectivity across the site.

2.26 Representations to GC Policy 3 Part G were received from Anglian Water (Anglian Water Reg.19 rep) and Affinity Water (Affinity Water Reg.19 rep) both of which outline their support for the policy and no concerns/objections were received from the Environment Agency (EA) (EA Reg.19 rep).

Part H: Integration of A120-A133 Link Road Mitigation

2.27 GC Policy 2 Part H has been included to ensure the requirements outlined in the Nature policy are fully integrated with the environmental mitigation for the Link Road, as specified in the conditions of the approved planning application. The requirement will strengthen nature provision and connectivity across the Garden Community.

Part I: Planning Application Requirements

2.28 GC Policy 2 Part I includes requirements for documents and information to be submitted in support of future planning applications. The right information is crucial to good decision making, particularly where formal assessments are required (NPPF Paragraph 43). In accordance with the NPPF, Local Planning Authorities should only request supporting information that is relevant, necessary and material to the application in question, those matters as outlined within GC Policy 2 Part I have therefore been carefully considered in the context of national policy, local requirements and context and proportionality to ensure required documentation is not overly onerous on the applicant.

2.29 The Councils consider that the requirements in Policy GC2 Part I are appropriately justified.

Air Quality

2.30 Paragraph 192 of the NPPF requires that planning policies should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications.

2.31 Natural England (NE) in their Regulation 19 representation (NE Reg.19 rep) advised that screening for air quality impacts should be revisited once there is traffic modelling information available to confirm which European Sites merit consideration (due to exceedance of relevant AADT triggers) when the DPD is considered "alone" and "in combination". The Councils have continued to engage with NE on this matter through the SoCG (SGC05) which has resolved the outstanding concerns through the suggested addition of a new Part 'Air Quality' to GC Policy 2 and the suggested addition of a requirement under GC Policy 2 Part I 'Planning Application Requirements. This has resulted in the inclusion of a suggested modifications as agreed with NE and outlined within the 'Schedule of Modifications' (CC4).

Does the Policy provide a clear direction as to how a decision maker should react to a development proposal?

2.32 Yes, GC Policy 2 provides clear direction to a decision maker as to how to react to a development proposal.

2.33 The Councils consider that GC Policy 2 is in accordance with Paragraph 16 of the NPPF, which requires that they are, 'clearly written and unambiguous', and drafted in such a manner that it is 'evident how a decision maker should react to development proposals'. The policy is positively worded and – where appropriate – sets out the requirements for decision

makers. The justification for the policy and how it will be applied is clearly set out within the relevant supporting text.

2.34 The policy is clearly linked to the relevant nature vision as set out in Chapter 2 and the Objectives as set out in Appendix 1 of the DPD.

2.35 For a decision maker, it is essential to comprehend the purpose of the policy, its broader objectives, and any specific criteria to determine whether a proposal results in harm or benefit. In some instances, the policy wording partially reflects the demands of statutory consultees who require specific wording to ensure that the decision maker and applicant clearly understand the requirements, facilitating the approval of the planning application.

2.36 Additionally, the policy specifies the information that must accompany planning applications in Part

END.