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HS9.1

Tendring Colchester Borders Garden Community Development Plan Document Examination

Matters and Issues Statement

Our ref 62189/01/PR/CW
Date 19 April 2024
ID 127
Representor Latimer (Tendring Colchester Borders Garden Community) Developments Limited
Prepared by Lichfields

Matter 9 Infrastructure Delivery, Impact Mitigation and Monitoring (GC Policy 9 - Infrastructure Delivery, Impact Mitigation and Monitoring)

1.0 Question 1: Are the requirements of the Policy justified by appropriate available evidence, having regard to national guidance, and local context?

1.1 Yes, GC Policy 9 is fully justified (NPPF September 2023, paragraph 35 b). The Policy seeks to ensure the Garden Community delivers the required infrastructure to support the development in a timely manner, it also recognises that where appropriate, infrastructure may need to be phased.

1.2 Whilst Latimer reserve their position on the specific breakdown of costs and phasing of payments assumed within the evidence base work, the cost allowances included within the Council's viability analysis are considered appropriate having regard to the evidence that was available on the assessment date.

2.0 Question 2: Does the Policy provide clear direction as to how a decision maker should react to a development proposal?

2.1 Yes, in part, with changes proposed below to assist the decision maker (also see Appendix 1 of this Matter 9 Statement).

2.2 GC Policy 9 is clear that Section 106 agreements will remain the appropriate mechanism for securing land and works along with financial contributions, but it also states *'where a sum for the necessary infrastructure is not secured via CIL'.* Latimer fully accept the requirement that the Garden Community must make appropriate, proportional contributions to mitigate the impact of development.

2.3 However, Latimer request that the DPD should state the subject scheme should be 'zero listed' for Community Infrastructure Levy (CIL), with all planning gain contributions calculated and paid under s106 (Latimer's Regulation 19 Representations, paragraph 10.3).

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To-date, all viability analysis associated with the subject scheme has been calculated based upon projected s106 requirements, and (presently unknown) alternative planning gain contributions cannot be contemplated. Strategic sites of this scale are quite commonly zero listed for CIL, for these reasons. Policy amendments are therefore set out in Latimer's Regulation 19 DPD representations (paragraphs 10.2, 10.4 and 10.6 - 10.8) and at Appendix 2, 6A of the statement of common and uncommon ground (SoCUG) between the Councils and Latimer (matter not agreed).

2.4 With regard to Part B of GC Policy 9 - it is questioned whether a Viability Assessment should be required to be submitted as a part of the planning application, if the parties are in agreement regarding the planning gain provisions. It is acknowledged that a separate Viability Assessment could be required in respect of the Housing Infrastructure Fund recovery, but this is likely to be different from a standard 'planning gain' viability assessment (as referred to at Part B of the policy point 3). On the basis of the above, and to assist the decision maker, for clarity, an amendment is recommended, as set out at Appendix 1, 6B of the Council's/Latimer SoCUG (agreed between the parties).

3.0 Question 3: Will the Council's monitoring and review processes for the DPD be effective in assessing the success or failure of delivery and what alternatives might reasonably be provided if necessary?

3.1 Latimer is confident that the DPD will be effective in assessing the success of the new Garden Community. Latimer is the master developer, committed to bringing forward the new Garden Community and comprising circa 7,750 homes, quality social infrastructure, sustainable transport infrastructure and employment use. The preparation of a hybrid planning application, informed by the DPD framework, is well progressed and submission of a planning permission is targeted in 2025. Latimer's development trajectory currently anticipates delivery of first homes in 2026/2027.

3.2 However, Latimer consider it is prudent that the DPD (Chapter 1) includes the requirement for the plan to be reviewed every five years. This will enable the DPD to be kept up to date so that the design and delivery of the TCBGC can respond to economic, technological, social, environmental and political changes over time. This review period will provide the opportunity to support Latimer's regenerative design aspirations for the TCBGC (see Latimer's Matter 6 statement) and ensure that the DPD remains relevant and sustainable over time.

3.3 The DPD does not suggest any 'alternatives', but it is not considered this is required at this stage. The DPD review period will enable any such alternative approach, for example relating to building regulations, sustainable infrastructure, or technological requirements, to be incorporated in the future, if necessary.

As set out in Part K of GC Policy 7, the planning application S106 establish a Transport Review Group. This will adopt an approach similar to many other large scale multi-phased multi-use schemes. It will be the role of the Transport Review Group (comprising Latimer, ECC and other key stakeholders) to ensure the monitoring is undertaken regularly and

ahead of subsequent key phases of development being submitted, so that appropriate transport strategies for each key phase based on local monitoring can negate any severe transport impacts that would impact successful determination of future phases, including on the strategic road network. The terms of reference of this group will be developed jointly between the Councils and Latimer and to help support the TCBGC in achieving its sustainable travel ambitions. This group will provide a forum for transport matters to be raised and addressed throughout the development build out. The establishment of this group provides greater control for authorities post-consent on transport matters than would otherwise be the case through a typical travel plan.

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Appendix 1 Requested Wording Changes to GC Policy 9, Infrastructure Delivery, Impact Mitigation and Monitoring

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The following amendments are requested by Latimer to GC Policy 9, Infrastructure Delivery, Impact Mitigation and Monitoring.

Text proposed to be inserted is ***bold, italic and underlined.*** Text proposed to be removed in ~~strikethrough~~.

A1.1 GC Policy 9, Part A

"Proposals will need to make financial contributions to the wider local transport infrastructure, including the A120-A133 Link Road and Rapid Transit System ~~in accordance with~~ ***taking into account*** the conditions of the Housing Infrastructure Fund".

A1.2 GC Policy 9, justification wording

"~~In negotiating~~ ***Where*** planning obligations ***are not agreed for development viability reasons,*** the Councils will require a fully transparent open book viability assessment and that all possible steps have been taken to minimise the residual level of unmitigated impacts. Developers may be required to enter into obligations that provide for appropriate additional mitigation in the event that viability improves prior to completion of the ***development, provided the additional obligations are required to mitigate the impact of the development."***

A1.3 GC Policy 9, Part A

"Enter into Section 106 agreements to make provisions to mitigate the impacts of the development where necessary or appropriate. Section 106 will remain the appropriate mechanism for securing land and works along with financial contributions ~~where a sum for the necessary infrastructure is not secured via CIL~~; and / or"…

….

~~The Councils will consider introducing a Community Infrastructure Levy (CIL) and will implement such for areas and/or development types where a viable charging schedule would best mitigate the impacts of growth. Section 106 will remain the appropriate mechanism for securing land and works along with financial contributions where a sum for the necessary infrastructure is not secured via CIL.~~

~~…~~

A1.4 GC Policy 9, justification wording

"The Councils will seek contributions from developers to fund improvements to existing infrastructure and the environment and new infrastructure. Contributions will be ***made as s106 planning obligations*** ~~through the Community Infrastructure Levy (if adopted), which applies a standard charge to developers~~ to fund supporting infrastructure such as transport, schools, community facilities and health facilities, and~~/or Section 106 agreements~~ which ***will also*** address the provision of affordable housing and ~~more~~ ***other*** site-specific infrastructure requirements. The necessary infrastructure requirements through the use of planning condition and/or planning obligation and/or financial contributions ~~through Community Infrastructure Levy (CIL) charges~~ ***will be made*** in accordance with The Community Infrastructure Regulations 2019."

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"Some infrastructure providers will fund and deliver infrastructure themselves. Other infrastructure will be funded by developers and landowners, secured by planning obligations ~~or the CIL (if adopted)~~ or its successor as part of the planning permission. On-site infrastructure provision will usually be secured by planning conditions or legal agreements. Off-site provision will usually be secured by legal agreements and through other financial contributions."