HS3.2

Hearing Statement- Main Matter 3 – Nature

Tendring Colchester Borders Garden Community Development Plan Document (DPD)

Wivenhoe Town Council

23.160

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Introduction

Cerda are instructed on behalf of Wivenhoe Town Council to act on its behalf in respect of the Examination into the Tendring Colchester Borders Garden Community DPD.

The Town Council are a key stakeholder and provided representations to the Regulation 19 consultation, making strong objections to the plan.

This document has been prepared in response to the Planning Inspectors invitation to provide further statements on the soundness of the plan and other elements of the plan ahead of the Examination in Public which starts on May 7th.

2.1

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

All environmental studies to date have been restricted to desk top ones, and with limited access to private land. We believe this was also supposed to have been done in full, in time for DPD as part of section 1 policy.

Also it is specified in section one that a Wintering bird survey *'will be undertaken at the appropriate time of year as part of the DPD preparation to identify any offsite functional habitat. Should any be identified, development must firstly avoid impacts. Where this is not possible, development must be phased to deliver habitat creation and management either on- or off-site to mitigate any significant impacts. Any such habitat must be provided and fully functional before any development takes place which would affect significant numbers of SPA birds.'* No Wintering bird survey has been conducted to our knowledge.

This policy should set out what is an appropriate amount of Suitable Accessible Natural Greenspace (SANG). Natural England have correctly pointed out that "there is no information provided in the DPD (or supporting documents) on the overall size of the Garden Community land take; the size of the likely developable area; or the amount of land that will be identified as Green Infrastructure (including the different typologies – recreation space; natural greenspace; allotments etc)." The reason this information is required early is because for the SANG to be suitable it needs to divert the recreational pressures away from the European Protected Sites.

Natural England estimate that 145ha is required and the DPD suggests that 25ha has sufficient capacity to accommodate any increased visitor usage proposed in order to count towards a SANG provision. There is a wide gulf between these figures and there is a risk that this plan is not deliverable because the site areas of the SANGs could be significantly higher than expected which requires the acquisition of land outside of the allocation which could make any scheme unviable, a fundamental issue which must be addressed prior to adoption.

The plan is not consistent with national policy, justified or positively prepared and is unsound.

2.2

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

The language of the policy is vague and isn't illustrated on the policy map so also contradictory. Leading to too much interpretation for decision makers.

As much of the information in the Ecology Audit is based on reiteration of desktop surveys, any subsequent BNG metric, will be fundamentally flawed by the absence of information and impossible to access accurately for decision makers. Desktop surveys are especially inappropriate on private land with limited or no access, which severely limits informed reporting of biodiversity. In other words, naturalists seldom frequent such areas so key species (such as Barn Owl) will be underreported. As it is impossible to assess the presence of, for example, great crested newts without a confirmatory eDNA survey of water bodies. Further, habitats for great crested newts can be some way away from their breeding areas, so the discovery of wintering habitat is very difficult without having time and access for a field survey. As its metric values only habitat and not the species which may inhabit there.

That landowners are unwilling to grant access to land is a worrying aspect to the viability of the project. Specialist lawyers engaged by landowners are far more able to win a battle of brinkmanship than a council which has limited resources of both time and money.

The DPD already mentions within its SuDS references that a combination of natural and engineered solutions will be implemented to conserve water and prevent flooding to the development. There is no way this will not impact on the ecology of the Salary Brook valley where the rainwater will end up. Plans to minimise the negative effects on this vital aquatic and amphibious corridor are not detailed.

The loss of habitat on site is far less of a negative than the effect of surrounding habitats and ecology, which does not figure in the BNG equation. This development, however compliant it may be with policy, unwittingly creates a significant and possibly irrecoverable biodiversity loss in a SPA.

The main negative impact of this development is not on its own footprint (as would be measured for BNG purposes), but outside of its catchment. In addition to the loss of established biodiversity in the disaffected wet corridors that are tributaries to the Colne Estuary SPA, it is also part of the East Atlantic migration highway, so impact from air quality of development affects migration routes. Visitor impacts also need to be understood and the plan provides no mitigation measures which would be effective or viable.

This was evident during lockdown in 2020 when significantly more large birds migrated over cities warmed by the sun, but not as much by vehicle fumes and other human emissions.

It is reasonable to assume that over the lifetime of the project national policy on BNG will develop and therefore the DPD policy should be explicit in stating that as detailed applications come forward for each phase, they will be required to comply with the latest legislation.

It is also stated that an ecologically rich buffer landscapes against existing and new road corridors will be required; and that the minimum widths of these will be agreed through an appropriate design code or similar. Yet there is no acoustic and visual buffer along the A133 shown on any of the master planning documents and no design code to reference.

With reference to Part F productive landscapes 'Allotments must be related to residential areas and community spaces, '. However, these are not shown or calculated in any plan. Policy states that 'design should respect the character and visual amenity of nearby towns, villages, historic buildings, structure and the character and features of the landscape' But there is a suggestion that these facilities can go in either the Elmstead or Wivenhoe green buffer which would be far too detached from those that will want to use them.

In Part B of the DPD: Integrating Green and Blue- this does not address additional trips to the coast from new residents (including the RAMSAR), but it is unclear what specific measures will be allocated to pay for monitoring and the policing of this, beyond requiring SANGS.

There is no clear preference for where SANGS will be located, either within the boundary or through the purchase of additional land. Natural England estimates that 145 hectares of suitable natural greenspace would be required to mitigate the impacts with the only proposal in the plan which could contribute to a SANG being a 25ha country plan to include Salary Brook Local Nature Reserve and Salary Brook Slopes. Visitors' surveys will take at least 1 full season to prepare, and adoption of a suitable mitigation strategy could take years to complete and might conclude that Salary Brook Local Nature Reserve does not have the attributes required to mitigate the recreational impacts of a nearby RAMSAR site. Taking account of the evidence provided by Natural England, a statutory body, it is highly unlikely that any developer will be able to demonstrate that the Salary Brook Local Nature Reserve has sufficient capacity to accommodate any increased visitor usage proposed in order to count towards SANG provision.

There are many examples of local authorities who have been unable to grant planning permission on policy compliant sites because there is no approved mitigation strategy. This is not an issue which can be deferred to developers and must be part of the plan as suggested by Natural England. A soundness issue which significant harms the effectiveness of this plan.