HS4.3

Hearing Statement- Main Matter 4 – Buildings Place and Character

Tendring Colchester Borders Garden Community Development Plan Document (DPD)

Wivenhoe Town Council

23.160

Contents

1. Introduction 3
2. Matter 4 Questions and Responses 4
   - 2.1 Question 1 4
   - 2.2 Question 2 7
   - 2.3 Question 3 8
   - 2.4 Question 4 9
   - 2.5 Question 5 10
   - 2.6 Question 6 11
   - 2.7 Question 7 12
   - 2.8 Question 8 13

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Prepared by:
M. Robson
BA (Hons)
DipTP
MRTPI

1. Introduction

1.1 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.

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

1.3 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. Matter 4 Questions and Responses

2.1 ***Question 1*** *– Are the requirements of the policies justified by appropriate available evidence, having regard to national guidance, and local context?*

The DPD claims that the Garden Community meets the Garden City Principles, set out by Town and Country Planning Association (TCPA). Section 1 states '8.5 In the absence of commitment and a policy framework that secures the principles of garden communities' development in the identified location would not be acceptable. Other options for meeting the growth would have to be considered.'

Garden Communities (GCs) are meant to incorporate 'Land value capture for the benefit of the community'. Yet the development corporation that was presented as the solution at the Section 1 hearings has not materialised.

GCs are meant to have 'Strong vision, leadership and community engagement.' Yet most of the master planning is caveated by being indicative. The overwhelming majority of consultation responses have been ignored and the most recent reg 18 consultation was that there should be - no development south of the A133.

GCs are meant to include 'Community ownership of land and long-term stewardship of assets.' Yet there is still no stewardship model.

GCs are meant to have 'A wide range of local jobs within easy commuting distance of Homes.' Yet the employment area is not able to be developed.

GCs are meant to have 'Beautifully and imaginatively designed homes with gardens, combining the best of town and country to create healthy communities and including opportunities to grow food'. Yet there are no design codes, 3d modelling specified in Section 1 of the DPD has not been produced. And no obvious allocation for allotments.

GCs should create 'Integrated and accessible transport systems, with walking, cycling

and public transport designed to be the most attractive forms of local transport.' A bus, especially on heavily congested roads is not an attractive form of transport and a bike in the rain less so. It cannot be proved that the link road will ever be delivered.

Policy SP 9 of the Section one plan sets out the principles that the DPD will address and this DPD should not be in conflict with those principles. The following table sets out the requirements set out in the Section one plan, how that is

addressed in DPD and our conclusion as to whether the DPD accords with the Section one plan.

SP9 Section one requirement	**DPD**	**Conclusion**
The development of a new garden community to high standards of design and layout drawing on its context and the considerable assets within its boundaries such as woodland, streams and changes in topography, as well as the opportunities afforded by the proximity of the University of Essex campus to create a new garden community that is innovative, contemporary and technologically enabled, set within a strong green framework with new neighbourhood centres at its heart.	Deferred to a masterplan and design code. General guidance that the development relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials. The DPD seeks to increase the supply of student accommodation both within the Garden Community 'Neighbourhoods' and elsewhere throughout the City of Colchester where there are good connections to the Rapid Transit System.	The DPD does not set out the principles of design, it does not address the context or take any opportunities afforded by the adjacent University of Essex and now proposes development in the City of Colchester.
Detailed masterplans and design guidance, based on a robust assessment of historic and natural environmental constraints and opportunities for enhancement	The guidance provided was developed prior to the heritage assessment and does not mention the historic environment. Natural environmental constraints are not mentioned in relation to masterplans, but should have provided guidance on the SANG requirements.	Not based on robust assessments. There is little guidance on masterplans or design.
Conserve and where appropriate enhance the significance of	The guidance provided was developed prior to the heritage assessment	Little regard to historic setting and no proposals for enhancement.

heritage assets (including any contribution made by their settings) both within and surrounding the site	and does not mention the historic environment.	
Provision of appropriate buffers along strategic road and rail infrastructure to protect new development.	Should extend to employment sites where people work and spend much of their day. Noise and air quality effects would have similar considerations. The Illustrative Framework Plan indicates that buffers do not meet this provision and there is no requirement in the policy.	The buffers shown are not sufficient to protect new development, especially those who work in employment areas.
Allocation of additional land within the garden community, to accommodate University expansion, which is at least equivalent in size to the allocation in the Colchester Local Development Framework Site Allocations document October 2010.	Although accommodation is mentioned, no details of where a suitable location would be and previously the Section one plan indication there would be provision of sports fields for the University, but this is no longer mentioned or illustrated.	

2.2 ***Question 2*** *– Are the policies relating to Affordable Housing, Development Density, and Housing justified by appropriate available evidence, having regard to national guidance, and local context?*

Wivenhoe Town Council is concerned that a soulless car-based dormitory is the natural output of the DPD. Scant regard has been placed on character despite immediate communities having long histories steeped in purpose. The GC has no discernible identity or purpose and this is a pre-requisite of forming sustainable communities. Without provision for place shaping at a strategic level enshrined in policy we will have a poor-quality development.

As part of the section one policy a three-dimensional plan was specified for the DPD. However, this has not been produced so density and housing type are impossible to judge.

Section 1 it states that '*All new development should reflect the following place shaping principles, where applicable: Respond positively to local character and context to preserve* and *enhance the quality of existing places and their environs; Protect and enhance assets of historical or natural value; Protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking*.' Putting the sports park and the terms of the buffer zones set out in the DPD fail this policy. The GC in no way enhances Wivenhoe, Elmstead or other local places nor does it respond positively to them.

Further work on place shaping that is acceptable to local communities is essential. More pertinently no policy allows for the protection of 'amenity of existing residents', this is a failure of the consultative process and the DPD's should ensure that adequate weighting is applied to existing residents.

We note the DPD's do not account for the discrepancy in affordable housing targets for developments between the councils and further work needs to be undertaken to ensure DPD's are consistent with local policies on this matter.

2.3 ***Question 3*** *– Policy GC Policy 1 and GC Policy 3 - Lisa Smith v SSLUHC [2022] EWCA Civ 1391 dated 31st October 2022, is a judgement regarding the interpretation of the Planning Policy for Traveller Sites (PPTS) and the application of that policy to Gypsies and Travellers who have ceased to pursue nomadic lifestyles. In light of this Judgement does the Council consider if it is necessary to review their assessment of Traveller site needs?*

No comment.

2.4 ***Question 4*** *– Is the Gypsies and Travellers Accommodation Assessment up to date and robust in its identification of needs for plots and pitches? Havant done the review.*

In section 1 Policy SP 8 *'7 hectares of employment land and provision for Gypsies and Travellers within the Plan period'*. However, there is no indication on the policy map where the travers site will be. Yet policy 4, part G, states *'a new site for the accommodation of* gypsies *and travellers will be delivered within the northern neighbourhood of the Garden Community, south of the A120 and west of the new A120-A133 Link Road, with good access to those roads.'* However now the link road is no longer planned in the plan period, this element of policy cannot be complied with.

The evidence provides more guidance on the location of gypsy and traveller pitches that the document which only requires that housing should meet the need, not must.

2.5 ***Question 5*** *– Does the Council's approach in relation to traveller sites generally conform with the expectations of Planning Policy for Traveller Sites (August 2015)?*

No comment.

2.6 ***Question 6*** *– Does GC Policy 1 and GC Policy 3 provide an adequate criterion-based policy for the assessment of Gypsy and Traveller site proposals?*

No comment.

2.7 ***Question 7*** *– Does GC Policy 3 provide clear direction as to how a decision maker should react to works to designated heritage assets?*

A comprehensive heritage assessment was specified as part of section 1 policy to be completed as part of the DPD. This was then neglected until after the master planning was complete. Therefore, although it gives direction it also contradicts in principle what is in the policy maps. The policy itself offers no guidance as to how to rectify this situation for the decision maker to reference. Housing density guidance is the only part of the policy which references density, rather than scale or form which may have greater effects.

2.8 ***Question 8*** – Does GC Policy 3 and GC Policy 4 provide clear direction as to how a decision maker should react to a development proposal?

GC policy 3 - The only way to ensure high quality of design is for the design codes, linked to the DPD, to be produced by the councils and not the developer. Policy is weak, e.g 'should consider the opportunity to provide space both for growing food' when this could be worded as will and then provide a condition. It gives too much flexibility for alternative interpretation. Leading to too much scope for decision makers. It also references detailed Design Codes for private amenity space which do not exist, yet applications are to be determined with reference to them.

The master plan as existing already fails to comply with the stipulation that:-

'Development that will lead to substantial harm to or total loss of significance of a listed building, conservation area*, historic park or garden or important archaeological remains (including the setting of heritage assets) will only be permitted in exceptional circumstances where the harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Where development will lead to less than substantial harm this harm should be weighed against the public benefits of the proposal.'* It cannot be argued that the land south of the A133, to be used as sports facilities for the university, is of public benefit as the university will manage it as a private facility for the use of students and not the public.

The policies are not detailed and rely too heavily on masterplans and design codes. Paragraph 28 of the NPPF states that *"Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies."* The DPD does not provide details at a local level, does not establish design principles and was developed prior to understanding the heritage assets.

The plan is not effective or positively prepared and is unsound.