Tendring Colchester Borders Garden Community Development Plan Document (DPD) Hearing Responses from Elmstead Parish Council

Main Matter 1 – Legal Requirements and Overarching Issues Does the DPD meet all its legal requirements?

Does the content and timescale for preparation of the DPD accord with the latest version of the Local Development Scheme?

We're concerned about discrepancies between the TDC and CCC LDS. The timescales portrayed in Colchester's LDS are outdated and already inaccurate, portraying the DPD to have been approved and adopted by January of this year – meaning it is already 6 months late.

Colchester's LDS confirms the DPD will be reviewed within 5 years, however we would question if any development will have commenced in this timescale.

Meanwhile TDC's LDS:

Paragraph 3.6 states; *'the DPD will set out the nature, form, and boundary of the new community'*. While the DPD refers to the area of search established by previous planning processes, we do not believe it clearly establishes a boundary for the TCBGC as a whole.

We also do not believe the DPD furthers the planning and implementation of key aspects of the GC such as detailing the RTS or confirming infrastructure delivery.

3.6 goes on to state *'The document will be produced in consultation with stakeholders and will include a concept and masterplan showing the disposition and quantity of future land-uses, and give a three dimensional indication of the urban design and landscape parameters which will be incorporated into any future planning applications. It will also include a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure'*

There is a number of ways in which the proposed DPD does not comply with these requirements.

- The DPD does not include a masterplan, only indicative illustrations.
- The DPD does not give a three dimensional indication of the urban design, with building height being an obvious omission for decision makers in the planning process.
- The LDS clearly states the DPD will include a phasing strategy, which it does not.
- There is no definitive implementation strategy to link the rate of development to provision of key infrastructure – including the link road, schooling and healthcare.

While there are frequent references in the DPD to future phasing documentation, the omission of any quantifiable phasing in the DPD is clearly non-compliant with the LDS, and does not support decision makers in positively responding to future development proposals.

Has the DPD consultation complied with the Statement of Community Involvement and public consultation requirements in the Town and Country Planning (Local Plan) (England) Regulations 2012?

Throughout most of the DPD consultation, the link road was portrayed as being constructed as a single project, and it was assured it would be complete and functional before development of the garden community could begin. Much of our engagement with formative stages of the consultation included assumptions of a complete link road as a condition before residential development, and even as recently as last year we were assured this would be the case. Up until this time all evidence provided was also assuming a complete link road was in operation. We would question if such significant changes late in the consultation process and with minimal supporting evidence would comply with the regulations.

During the regulation 18 consultation process, we complained to the relevant council officers of a number of ways the consultation was managed that we felt disadvantaged responses from Elmstead Parish Council and its parishioners locally. This is evidenced by the low turnout at consultation events and ultimately led to the regulation 18 outcome of potential refinements suggested by 'Greenstead Councillors and Community' being used across the evidence base as the DPD was advanced, but without similar input from other surrounding communities, such as Elmstead, Ardleigh and especially Crockleford Heath. We believe the numerous failures of public engagement during the regulation 18 process do not constitute a fair consultation and have led to bias as the DPD has advanced.

We are also concerned our responses to previous consultations, especially during the regulation 19 process for the DPD itself, were summarised by a 3rd party after submission, paraphrased in such a way to be misleading and ultimately misrepresented our response. We would have been willing to summarise the response ourselves if necessary but were never asked to.

Has the DPD been subject to a Sustainability Appraisal (SA) and have the requirements for Strategic Environmental Assessment been met? Is it clear how the SA influenced the final plan and dealt with mitigation measures?

With the plan within the DPD being only illustrative it is impossible to say how the SA will have influenced the final plan as the land developers current planning stages diverge significantly from that portrayed. The SA does not adequately consider the implications of the revised and potentially incomplete link road and RTS connections on existing local infrastructure, and the significant effect that will have on environmental factors such as air pollution.

Have the requirements for appropriate assessment under the Habitats Regulations been met? Have the results of the Habitats Regulations Assessment been carried forward in the DPD?

We are concerned numerous conclusions of the assessment have not been adequately progressed into the DPD.

The wintering bird survey established 'the majority of the waterbird assemblage recorded as part of the wintering bird surveys was recorded at Allen's Farm Lake.', the DPD does not acknowledge this or provide adequate protection within policy to prevent harmful effects on the lake (reservoir) surroundings.

Does the 'policies map' correctly illustrate geographically the application of policies of the DPD?

We are concerned at the strictly indicative nature of the policies map. There is no policy commitment to follow this map, and it provides decision makers with little guidance if a planning proposal emerges that is in contradiction to the map. For the previous consultations of the DPD to have produced meaningful community involvement, there needs to be a greater commitment to the accuracy of the map.

Maps included in the evidence base and other associated documents show certain features portrayed in the policies map in other locations/different configurations, leaving decision makers to decide between following DPD policy or taking an evidence based approach.

Consistent with National Policy Does the DPD accord with national policy for plan making in the NPPF, specifically:

Does the DPD contribute to the achievement of the three dimensions of sustainable development – economic, social, and environmental?

Paragraph 1.16 of the economic and employment study states: ' The prospects for a business park (B2/B8 logistics, industrial and ancillary office) with direct access to the A120 are strong in the short term.'.

While 'short term' is open to interpretation, we would suggest the second phase of the link road – including the junction on the A120 will not be operational within any 'short term' timeframe. With the added complication of then developing and constructing the business park it's clear the employment opportunities are a long term prospect.

In the supporting text the study acknowledges this employment land is already 'associated with more risk and uncertainty'.

Paragraph 1.21 reads: 'Projections show steady but small scale growth in jobs in Tendring and Colchester over the next 10-20 years. Based on these trends, take-up of the full 25 ha of land would be slow' – raising additional questions about the financial viability of the business park.

When the principle source of employment opportunities for the GC is dependant on the second phase of the link road, which is in turn dependant on an unknown number of presumably thousands of houses being developed and importantly sold to fund the link road's completion, we believe the DPD does not sufficiently address the risks to this employment strategy identified in its own evidence base.

The employment study also notes in paragraph 1.25 that 'The evidence base preceding this report was generated before the use class order changes in 2020'. We are concerned the data this study is based on being pre-pandemic may not represent current realities, and assertions made such as 'The University has ambitious aspirations for growth in its student numbers' may no longer be supported by evidence. Emphasis given to such evidence in DPD policies is of questionable sustainable nature.

We are concerned the DPD does not address sustainable social development as there is no policy direction to establish long term local stewardship and governance, and thus a cohesive sense of community within the new development. We are concerned the majority of residential development, including all initial parcels, will be within Elmstead and so without policy guidance establishing otherwise, Elmstead Parish Council may find it automatically becomes responsible for unforeseen duties as the local parish council.

Has it been positively prepared 'in a way that is aspirational but deliverable? (paragraph 16 of the NPPF)

While we recognise the DPD is exceedingly aspirational, we have serious concerns about deliverability.

Adequate financial resilience has not been displayed in the evidence base, with growing mid term economic uncertainty the DPD needs to be founded upon certain land value uplift sufficient to meet its high aspirations and fund infrastructure and further development. The financial viability assessment, which was last updated over a year ago, establishes a 15% profit on cost was approved by the Inspector at Section 1, it establishes an appropriate internal rate of return at 10-14%. It then establishes the GC appraisal at that time predicts a return of only 9.65% - below any of the acceptable thresholds established within its own justification. Since the time of this update, with high inflationary pressure and stagnant house prices, including periods of house prices falling locally, we are very concerned that there is no evidence to confirm the DPD's financial viability at this time.

Even since the regulation 18 consultation, there have been significant changes as the DPD has been refined that reduce the value generated. Multiple factors have increased housing density substantially to an extent and scale incomparable to anywhere else in north essex. Meanwhile revisions to infrastructure delivery and a lack of phasing raises significant questions about the ultimate state of infrastructure within the garden community, especially in the DPD's full period.

Houses built and occupied during the first stages of development will never fully benefit from land value uplift as they are subject to the negative aspects of continual development in the surrounding area for decades and a lack of the future infrastructure for many years. This is only exasperated by the incomplete link road for an indeterminate amount of time that has a further and significant detrimental effect on house prices and demand. When it is the sale of these

houses and recovery of funds through S106 that will enable the second phase of link road to be completed, there are situations the DPD fails to acknowledge or address where demand and therefore delivery grinds to a halt.

The failure of the DPD to produce a resilient phasing model compounds the question of deliverability, as decision makers lack the framework and milestones to ensure the final garden community complies with the DPD. There is no guidance for what action to take if it becomes apparent during development that land value uplift will not sufficiently fund required infrastructure.

Do the policies in the DPD provide a clear indication of how a decision maker should react to a development proposal?

We have specific concerns noted in other matters for examination.

However we must stress the overarching problem with inconclusive language throughout DPD policy is not adequate to guide decision makers to a confident conclusion.

With there being dozens of instances we would call attention to of phrasing needing to be changed for more assertive language, the format of this submission is not appropriate to list them extensively. We would instead suggest we are happy to submit a copy of the DPD with the problematic wording highlighted.

Main Matter 8 – Sustainable Infrastructure (GC Policy 8: Sustainable Infrastructure)

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

With traffic modelling and associated evidence relating to the RTS being from before the covid pandemic, and so irrelevant to current transport needs, we are concerned the reliance on an inconclusive RTS strategy is not an evidence based approach to sustainable transport.

Assumptions made about a modal shift of transport are entirely unrealistic, assuming a change from personal cars to walking and cycling never before seen in the UK.

With the implications of an incomplete link road not factored into the transport evidence, the only conclusion is any development completed within the plan period must be overly reliant on private cars for transport, developing a habit and trend for the residents of the garden community that will persist even if alternate transport solutions become available, it is vital sustainable travel is implemented as an attractive option before occupation of residential development is allowed – this requirement should be made in policy.

Without a complete link road, the drastic increase in traffic onto the A133, and further congestion both within Elmstead, and on Clingoe hill will cause significant harm to existing

local communities and can only have a negative effect on house prices, land value uplift and therefore financial viability of the garden community as a whole.

Given recent changes in planning guidance to prohibit the use of grade 1 farmland (of which significant areas of the GC are) for use as solar farms, we would query what effect this has on the policy requirements?

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

Policy 8 – Part A: 'Where the use of onsite renewables to match total energy consumption (energy use intensity) is demonstrated to be not technical feasible or economically viable onsite, renewable energy generation should be maximised as far as possible and/or connection to a district heating network. Where this is not possible, the residual energy should be offset by a contribution to an offset fund.'

The policy and evidence base does not provide a decision maker with an adequate definition of 'economically viable'. When financial viability is of significant concern, policy should provide guidance as to when to allow alternative methods.

'Compliance should be demonstrated' – Compliance will or must be demonstrated is clearer and more definitive. Where other policy language is more authoritative this is distinctly lacking. We would strongly encourage revised language across the policy to affirm that the policy 'will' or 'must' be enacted instead of 'should'.

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

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

We do not believe the ecology audit provides adequate evidence, due to an over reliance on desktop surveys and lack of access to private land, the findings do not align with our own local knowledge.

We'd query why access hasn't been granted to private land and what implications this may have for policy if previously unknown factors come to light after the DPD is implemented.

While Natural England are suggesting over a hundred hectares of SANG land is a requirement for the GC, the DPD accounts for less than a quarter of this area. There is simply not the land area available within the GC area of search to provide this land, and maintain practical densities for housing and other development.

We are concerned the evidence base drainage and water management reports do not align with local experience – areas identified of as no concern within the evidence base are at the time of writing experiencing localised flooding despite being best served by dense vegetation cover and extensive farm drainage. Any development will reduce both infiltration and storage capacity of

rainwater, requiring additional drainage into Salary Brook. We are concerned at the implications of such drainage, over recently developed farmland with a high concentration of pollutants that have accrued over decades of intensive farming and centuries of livestock farming could cause significant damage to both Salary Brook, the surrounding nature reserve, and sensitive areas downstream.

It must also be acknowledged that the lacking evidence base does not portray resilience in the site to deal with climate change related weather events, with limited capacity for increasingly wet winters in the future.

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

The illustrative framework plan is in contradiction to many other policies and evidence resources. By showing elements such as a large 'green buffer adjacent to new roads' to the east of the new link road, which runs through an area shown in the strategic illustrative masterplan to be employment bases uses – aka. Industrial parks, the policies and their indicative maps are in direct contradiction to one another.

There is no development outcome that could meet both illustrations and policy needs – but decision makers have no guide as to what to do when such policies contradict.

There are numerous instances of the policy wording being weak and unenforceable. We refer to previous comments encouraging phrasing that policy "will/must" be enacted instead of should.

The worst examples of this are in cases such as Part E: 'Existing trees on the site, including hedgerows, should be retained where appropriate'. Not only should the policy be 'will be retained' to be an effective planning tool, but the policy also gives no direction as when is or is not appropriate, leaving the decision entirely open to interpretation and disagreement.

Main Matter 2 – Land Uses and Spatial Approach (GC Policy 1: Land Uses and Spatial Approach)

Is the DPDs spatial strategy and the distribution of development as set out in GC Policy 1: Land Uses and Spatial Approach supported by robust and up to date evidence and otherwise soundly based?

The STRATEGIC ILLUSTRATIVE FRAMEWORK MASTERPLAN and numerous other maps throughout the DPD and evidence base are based upon a map from before 2019. They do not show numerous developments, including those within the garden community boundaries on Bromley road, and extensive development that has since happened surrounding Elmstead market, significantly reducing the intermediate rural landscape between the two settlements.

There are numerous decisions that seem to be made on the STRATEGIC ILLUSTRATIVE FRAMEWORK MASTERPLAN that are not discussed in policy or referenced in evidence. While land uses are merely illustrative, this approach cannot be scrutinised as evidence based, yet could bias a decision maker.

Does the DPD deliver the quantum of housing consistent with the Section 1 and Section 2 plans regarding the quantum of homes i.e. setting a requirement of 7,500 new homes Does GC Policy 1 make adequate provision to meet Tendring and Colchester's housing needs and does the plan clearly set out a delivery trajectory that is achievable?

The DPD does not set out any clear delivery trajectory. With no quantitative phasing there is no policy to govern the rate of development, and therefore a distinct lack of an evidence based approach to ensure development is sustainable, both financially and socially.

To be an effective plan the DPD at least needs a policy requirement for a certain amount of homes to be delivered within the current local plan period.

Does the DPD adequately address the needs for all types of housing and the needs of different groups in the community (as set out in paragraph 63 of NPPF)?

The DPD does not take an adequate evidence based approach to define the 'size, type and tenure of housing needed' as required in paragraph 63.

Does the DPD make adequate provision to contributing towards meeting Tendring and Colchester's economic growth requirements for the plan period and its timescale for delivery?

The near certainty the A120 employment site will not be developed within the plan period invalidates many of the findings of the economic and employment study that rely on the site as the short term delivery method of jobs. The other primary economic growth is modelled as part of the knowledge gateway which is recognised as a long term prospect and therefore outside of the plan period.

Main Matter 4 – Buildings, Place and Character (GC Policy 3: Place Making Principles and GC Policy 4: Meeting Housing Needs)

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

We were disappointed that the relevant heritage impact assessment was not adequately completed until after the regulation 19 consultation, being published in March of this year.

Its clear the DPD cannot have used an evidence based approach when the appropriate evidence was gathered after the DPD was submitted.

Furthermore the foundation of the GC character is based upon garden community principles, which we can identify a significant number of that the DPD fails toa address, ignores or actively opposes in policy. The lack of a clear community stewardship model is a distinct failure in place making, no design code is presented and there is generally a lack of guidance in policy, instead being overly aspirational.

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

We do not feel the policy wording reference to 'substantial harm' is clearly defined, and reiterate specific concerns for the church of St Anne and St Lawrence and Elmstead Hall, being grade I and II* listed respectively, which the local community would consider to be at risk of substantial harm. The HIA even acknowledges in 4.20 that the relevant policy decisions in the DPD 'would not remove the harm' done to these assets.

When policy acknowledges harm is going to be done regardless, this encourages a decision maker to accept any negative consequences as acceptable. A positive approach to policy would be to establish what measures must be taken to prevent such harm.

Main Matter 6 – Community and Social Infrastructure (GC Policy 6: Community and Social Infrastructure)

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

We are concerned at the lack of direction within the DPD at establishing a cohesive plan for local stewardship and governance, and defining where the garden community fits into the existing communities within the area. With no indication of a potential boundary change, the

majority of the development area, including both south and north neighbourhoods, and any development expected within the plan period falls within the Elmstead Parish boundaries.

Without an approach established in policy we are concerned any undefined responsibilities may fall to Elmstead Parish Council.

The end of part F: Stewardship is especially concerning as 'Developer contributions will be required to fund the initial set up and running costs, including staff, premises, and equipment costs. This support will need to be provided for a minimum of 10 years, or until such time as stewardship activities are financially self-sustaining, before the occupation of the first home.' This statement can be understood in a number of ways and provides no clarification on its intent.

We must again reiterate the need for phasing to be included in the DPD policy, the need for healthcare and schooling phasing specifically being identified by the Inspector during previous sections' processes. A decision maker would be best served by clear statements, such as in part C, of 'a secondary school to be operational before more than 2000 residences are occupied'.

There are further failures of phrasing within the policy that make the intention meaningless. 'Proposals should have regard to the Essex County Council 'Developers' Guide to Infrastructure Contributions' and 'Garden Communities and Planning School Places' guide' – has no effect as a policy, any proposal could have regarded the guides but taken no action.

Main Matter 7 – Movement and Connections (GC Policy 7: Movement and Connections)

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

So much of the policy and evidence base is on the assumption of a complete link road built in its entirety before development of the wider garden community begins. From traffic models to emergency service vehicle access and the overly ambitious modal shift expectations, the foundation of the justification and therefore viability of the GC was based upon a complete link road and access to the GC from the A120 from its inception.

The evidence base also fails to consider other local developments putting increasing pressure on transport infrastructure, especially roads, including a number of junctions that are already problematic. Hundreds of houses have been built in Elmstead since the section 1 adoption and many more across Wivenhoe, Colchester and most importantly further east in Tendring where growing communities such as Alresford, Brightlingsea and Clacton were expected to use the complete link road, but are now forced through the Clingoe Hill chokepoint. While policy demands the RTS gets priority at specific junctions, it fails to consider that with current proposals there are still sections of roadway it is reliant on general traffic flow. Without a complete link road the excess traffic not considered by the evidence base may cause the RTS to become unreasonably slow.

We would suggest the RTS approach fails to consider the beneficial implications of extending the network to beyond the GC to reduce increased traffic into and around the GC. With the current approach an Elmstead resident looking to use the RTS is likely to drive into the GC to use a park and chose facility. Nowhere within the evidence base are such local journeys into the GC considered, although our expectation would be that at peak times this is a significant flow of traffic that will cause bad congestion at the southern junction of the link road with the A133.

Furthermore from the initial DPD stages through additional rounds of consultation there has been increasing numbers of interruptions placed across the A133, including additional junctions for the relocated RTS access and a growing number of pedestrian crossings. These obstacles to the free flow of traffic are not cumulatively considered in the outdated traffic modelling and the frequent interruptions to traffic flow will presumably greatly increase local journey time, and the stop/start nature will worsen air pollution implications. The road safety implications of so many interruptions on a major A road are not adequately addressed in the evidence base.

Throughout previous stages of the DPD's creation, including the Regulation 18 consultation, we were assured all construction traffic for the entirety of the DPD period would access the garden community site via the A120 junction, to prevent extensive HGV activity in and around Elmstead. With this assurance we did not include such a statement in our responses to consultation, such that we, and many concerned local residents have had to opportunity to engage with the suggestion that hundreds of HGVs per week will need to pass through the local area until when/if a connection with the A120 is created.

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

Part J states: 'Permission for latter phases of development may not be given if modal split targets for early phases are not being met'. This option is unimaginable, that any decision maker is without any additional guidance from policy of when this may be the correct course of action, and could potentially stop further development when the garden community is on the middle of construction. How can such possibilities be considered in policy without full consideration and evidence to establish the ramifications of this course of action?

There is also no clear policy need for the RTS to be functioning before houses are occupied within the GC, furthering concerns that initial residents will establish a habit of being reliant on cars. There is no indication of how and where secondary school students living within the GC before the new school is built will access a school presumably in Greenstead or Brightlingsea, both of which are beyond reasonable active transport distances and inaccessible by bus.

Main Matter 9 – Infrastructure Delivery, Impact Mitigation and Monitoring (GC Policy 9: Infrastructure Delivery, Impact Mitigation and Monitoring)

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

The Infrastructure Delivery, Phasing and Funding Plan was finalised in early 2023. It established the average cost of infrastructure per home within the garden community was £64,000 (now over £70,000 including basic inflation). This significant additional cost to new home building has not been adequately justified when compared to other local developments which have far lower infrastructure burden, and so can deliver comparable housing at a far lower cost. The evidence base fails to recognise the implications on housing demand within the GC this will have, and in turn the consequences on land value uplift necessary for the financial viability of the GC.

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

No. There are numerous expected development proposals that will have to contribute to numerous required infrastructure projects financially through S106 agreements. However the DPD presents competing and contradictory demand for this funding with no guidance or policy on priority.

There is also no policy to establish intermediate measures covering the period when houses are being built and occupied, but before their associated infrastructure is functional.

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?

There is insufficient thought and policy dedicated to a substantial change in circumstance outside of the authorities' control. The narrow margins of financial viability and intense pressure on infrastructure spending are a serious cause for concern, with no redundancy included in the DPD.