The Planning Inspectorate

Report to Tendring District Council and Colchester City Council

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an Inspector appointed by the Secretary of State

Date: 31 March 2025

Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

Report on the Examination of Tendring Colchester Borders Garden Community Development Plan Document

The Plan was submitted for examination on 21 September 2023

The examination hearings were held between 7 and 10 May 2024

File Ref: PINS/P1560/429/6

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Abbreviations used in this report.

DPD	Tendring Colchester Borders Garden Community Development Plan Document
MM	Main Modification
NPPF	National Planning Policy Framework
ECC	Essex County Council
2004 Act	Planning and Compulsory Purchase Act 2004 (as amended)
NEASSS1P	North Essex Authorities Shared Strategic Section 1 Plan 2021
UoE	University of Essex
RTS	Rapid Transit System
BNG	Biodiversity Net Gain
HRA	Habitats Regulations Assessments
HIA	Heritage Impact Assessment
SoCG	Statement of Common Ground
WMS	Written Ministerial Statement

Non-Technical Summary

This report concludes that the Tendring Colchester Borders Garden Community Development Plan Document (the DPD) provides an appropriate basis for the planning of the Garden Community, provided that a number of Main Modifications [MM] are made to it. Tendring District Council and Colchester City Council have specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the Councils prepared a schedule of the proposed modifications and, where necessary, carried out a sustainability appraisal and habitats regulations assessment of them. The MMs were subject to public consultation over a six-week period. In some cases, I have amended their detailed wording and/or added consequential modifications where necessary. I have recommended their inclusion in the DPD after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised, amongst other things, as follows:

- Amending GC Policy 1 to clarify that should the provision of the Park and Choose facility be located south of the A133 it should not prejudice the full and comprehensive expansion needs of the University of Essex (UoE).
- Amending GC Policy 2 to ensure that the minimum requirement of 10% Biodiversity Net Gain (BNG) is met across the masterplan area as required by current legislation.
- Amending GC Policy 7 to ensure that the DPD carries forward the requirements of the North Essex Authorities Shared Strategic Section 1 Plan 2021 (NEASSS1P) to secure funding and delivery of the Rapid Transit System.
- Removing reference to a potential future Community Infrastructure Levy ('CIL') charging schedule, which would be subject to a separate independent examination.

A number of other main modifications are also recommended to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

Introduction

1. This report contains my assessment of the DPD in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended) (the 2004 Act). It considers whether the DPD is compliant with the legal requirements and whether it is sound. Paragraph 36 of the National Planning Policy Framework 2021 (NPPF) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.

2. The DPD was examined under the transitional arrangements under paragraph 230 of the NPPF 2023 which states that plans that reach pre-submission consultation on or before the 19 March 2024 will be examined under the relevant previous version of the NPPF, being that published in 2021.

3. The starting point for the examination is the assumption that the Councils have submitted what they consider to be a sound plan. The DPD, submitted in September 2023, is the basis for my examination. It is the same document as was published for consultation on 15 May 2023.

Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Councils requested that I should recommend any MMs necessary to rectify matters that make the DPD unsound and thus incapable of being adopted. My report explains why the recommended MM are necessary. The MMs are referenced in bold in the report in the form **MM1, MM2** etc, and are set out in full in the Appendix.

5. Following the examination hearings, the Councils prepared a schedule of proposed MMs that was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report and in this light, I have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal/habitats regulations assessment that has been undertaken. Where necessary, I have highlighted these amendments in the report.

Policies Map

6. The Councils must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development

plan. When submitting a plan for examination, the Councils are required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted DPD. In this case, the submission policies map comprises plan TCB-DWG-DW-PP-01.

7. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, there are instances where the geographic illustration of policies on the submission policies map is not justified, and where changes are needed to correct typographical errors and ensure that the relevant policies are effective. They include amending the area identified as a sports and leisure park to cover existing woodland to the south of the A133 and clarifying that the 30m woodland "buffer" is for information purposes only. When the Plan is adopted, to comply with the legislation and give effect to the Plan's policies, the Councils will need to update the adopted policies map to include all the changes identified on the "DPD Policies Map – modifications Update" document.

8. As consulted upon, the changes to the submission policies map were also included in the schedule of recommended MMs. However, for the reasons given above, I cannot recommend MMs to policies map TCB-DWG-DW-PP-01. I have therefore deleted **MM14 - MM17** from the schedule at Appendix A to this report. This is in contrast to **MM51** which seeks to amend text within an illustrative plan that is embedded within the DPD at page 93.

Assessment of Duty to Co-operate

9. Section 20(5)(c) of the 2004 Act requires that I consider whether the Councils complied with any duty imposed on them by section 33A in respect of the Plan's preparation.

10. Both Councils, along with Essex County Council (ECC), have a long history of working with neighbouring authorities and prescribed bodies on cross boundary issues and strategic matters relating to the Garden Community. The DPD seeks to implement the strategic objectives of the NEASSS1P which, in turn, has already been examined, found to be sound and adopted as part of the development plan for the area.

11. Tendring District Council and Colchester City Council have outlined their continuing collaborative approach within the Duty to Cooperate (DtC) Statement, September 2023. This demonstrates constructive engagement with the necessary local planning authorities and the various prescribed bodies. Moreover, actions taken during the preparation of the NEASSS1P has provided the context for the continuing cooperation between the Councils, and ECC during the preparation of the DPD's policies. In particular, a 'Memorandum of Co-operation: Collaborative Working on Strategic Growth Priorities in North and Central Essex' was entered into, and signed by the

Councils and ECC, along with Braintree and Chelmsford Councils in June 2016.

12. This is further evidenced through GC Policy 1 which takes forward the requirements of the NEASSS1P, setting out the key land uses and spatial parameters within which the Garden Community is expected to be built, and the Councils' expectations for the information that will need to be submitted and approved ahead of the determination of any outline or detailed planning applications for development of the Garden Community. This in turn will enable the Councils to ensure that development will achieve a comprehensive approach that delivers garden community principles and the Councils high expectations for design and quality as set out in the Plan.

13. As such, I am satisfied that where necessary the Councils have engaged constructively, actively and on an on-going basis in the preparation of the DPD and that the DtC has therefore been met.

Context of the Plan

14. The DPD is intended to fully replace the policies that relate to the DPD area as set out within the Tendring District Council Local Plan 2013-2033 and Beyond Section 2 and the Colchester City Local Plan 2017-2033 Section 2. Once adopted the DPD will set out the spatial development strategy for the Garden Community, along with strategic policies, detailed area strategies and associated site allocations, and development management policies to contribute towards securing social, environmental, and economic objectives.

15. The Tendring Colchester Borders Garden is located to the east of Colchester, crossing into Tendring District. The Garden Community seeks to deliver between 7,000 to 9,000 new homes across its North, South and Crockleford Neighbourhoods over the next 30 to 40 years. It will be served by a network of open spaces for healthy living, recreation and to promote wildlife. New services, facilities, and infrastructure will also be provided, including a new Rapid Transit System (RTS) and a new dual carriageway Link Road between the A120 and A133.

16. The DPD sets out its six visions for the Garden Community to promote nature, buildings, place and character, economy and employment, community and social infrastructure, movement and connections, and sustainable infrastructure to contribute towards the area's sustainability targets combating climate change.

17. The Garden Community is a long-term project that seeks to deliver housing, employment, and associated community facilities over the next 30 to 40 years. The campus for the UoE lies directly to the south of the Garden Community.

Public Sector Equality Duty

18. I have had due regard to the aims expressed in S149 of the Equality Act 2010. This, amongst other matters, sets out the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.

19. I have considered several matters during the examination including health and wellbeing, social and community infrastructure, and provision for specialist housing for older and disabled people and also for those who need accessible housing, along with ensuring there is adequate provision to help meet the accommodation needs of Gypsies and Travellers. GC Policy 4 requires the creation of adaptable and accessible homes, the provision of care, assisted living and other specialist housing, student accommodation, along with ensuring that adequate provision is made for the Gypsy and Traveller community.

20. In this way the disadvantages that they suffer would be minimised and their needs met in so far as they are different to those without a relevant protected characteristic. There is no compelling evidence that the DPD as a whole would bear disproportionately or negatively on them, or others in this category.

Assessment of Other Aspects of Legal Compliance

21. The DPD has been prepared in accordance with Tendring District Council's Local Development Scheme 2024-2027 dated February 2024 and Colchester City Council's Local Development Scheme 2023-2026 dated February 2023.

22. Consultation on the DPD and the MMs was carried out in compliance with Tendring District Council's Statement of Community Involvement dated July 2020 and Colchester City Council's Statement of Community Involvement dated February 2023.

23. The Councils carried out a Sustainability Appraisal (SA) of the DPD, which incorporated the requirements of Strategic Environment Assessment (SEA). Although the SA and SEA are separate processes, the SEA requirements are appropriately incorporated into the SA and fully explained. The Councils also prepared a report of the findings of the appraisal and published the report along with the plan and other submission documents under regulation 19. The appraisal was updated in August 2024 to assess the main modifications.

24. The Habitats Regulations Assessment, May 2023 as updated by the July 2024 addendum, sets out why an Appropriate Assessment is not necessary.

No convincing evidence has been provided that would lead me to a different conclusion.

25. The DPD, taken as a whole, includes policies designed to secure that the development and use of land in the local planning authorities areas contribute to the mitigation of, and adaptation to, climate change.

26. In conclusion, the DPD complies with all relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations. Overall, I am satisfied that the SA, incorporating the SEA, and Habitats Regulations Assessments comply with the necessary legal requirements and associated national guidance.

Assessment of Soundness

Main Issue

27. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified one main issue upon which the soundness of this plan depends. This report deals with this main issue. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion, or allocations in the Plan.

Main Issue – Whether the DPD is consistent with, and positively promotes, the vision, objective and spatial policies of the NEASSS1P and whether it is justified, effective and consistent with national planning policy

28. Policy SP 8 of the NEASSS1P states that the development and delivery of a new Garden Community in north Essex will deliver between 2,200 and 2,500 homes, 7 hectares of employment land and provision for Gypsies and Travellers within the Plan period (as part of an expected overall total of between 7,000 and 9,000 homes and 25 hectares of employment land to be delivered beyond 2033). Policy SP 8 then sets out the principles the Garden Community must comply with, including the preparation of a Development Plan Document. Therefore, the principle of the Garden Community has been established through the adoption of the NEASSS1P.

29. Policy SP 9 of the NEASSS1P states that the DPD for the Garden Community required by Policy SP 8 will define the boundary of the Garden Community and the amount of development it will contain which will be defined by the Policies Map. The DPD takes forward the requirements of the NEASSS1P and sets out the key land uses across the Garden Community. It also sets out a strategy to deliver new homes, jobs, and the facilities, services, and

infrastructure needed to ensure that the Councils' ambitions are met. It does this by setting out key locations across the Garden Community that will play a strategic economic role or will provide opportunities for regeneration in the plan period.

30. The DPD seeks to contribute towards the achievement of sustainable development as advocated by the NPPF which defines the three dimensions of sustainable development as economic, social, and environmental. GC Policy 1, GC Policy 7, and GC Policy 9 embody all of these elements within the DPD seeking to provide a policy framework to achieve sustainable development. The DPD has been prepared positively, in a way that is aspirational but deliverable. The Councils have worked positively with the lead developer and produced an Infrastructure Delivery, Phasing and Funding Plan along with a Financial Viability Evidence Update to provide financial viability clarity with regard to all policy requirements, as set out in the DPD.

31. Therefore, the DPD is robust and meets national policy requirements. It is also consistent with the NEASSS1P and seeks to positively promote its vision in delivering a Garden Community.

32. Chapter 2 of the DPD sets out the vision for the Garden Community, recognising that this is an opportunity to create a brand new community in a comprehensively planned way from the very start. To ensure consistency with paragraph 20 of the NPPF and other parts of the DPD, **MM1** inserts the text "*health and wellbeing facilities*" which sets out the provision of community and social infrastructure to serve the Garden Community.

GC Policy 1: Land Uses and Spatial Approach

33. GC Policy 1 sets out what land will be included in the Garden Community, how the development will be laid out, which areas will be allocated to housing, employment, open space or other uses including infrastructure, and which areas will be protected from development.

34. GC Policy 1 Part A sets out the Land Use Parameters and Policies Map. It identifies specific allocations which, in accordance with Policy SP 9 of the NEASSS1P, includes a sports and leisure park to serve the local community, and for the expansion of the UoE which is at least equivalent in size to the allocation as set out within the Colchester Local Development Framework Site Allocations document October 2010. GC Policy 1 Part F sets out the expectations of the sports and leisure park.

35. I have carefully considered the needs of the University. However, there is no requirement for the University to provide all the accommodation it requires

and not all of it has to be within one place, or indeed within the Garden Community. There will be opportunities for some of the student accommodation to be provided across the Garden Community once it establishes and I have no evidence that this will lead to an over concentration within the Neighbourhoods. Indeed, the supporting text to GC Policy 4 states that density in the Southern Neighbourhood may allow for some additional student accommodation, and for the opportunity for early connection to the RTS.

36. Furthermore, the University has failed to demonstrate that the existing land at the campus cannot provide for some of its expansion requirements. The Wisher report[1] also stated that there are other areas that could meet the University's needs, such as at Hythe and possibly elsewhere across the Colchester urban area within close proximity to the campus. Moreover, there is land to the south of the campus which the Wisher report recognises has previously been identified for the growth of the University and remains a logical location for student accommodation, which would need to be considered in conjunction with the Wivenhoe Neighbourhood Plan. Thus, the allocation as submitted is justified.

37. To ensure it is effective and secures the identified infrastructure needs, **MM2** amends Part A of GC Policy 1 to include "*health and wellbeing provision*". To ensure that the Policy is effective and to provide a clear direction for the decision maker, **MM3** amends Part B of GC Policy 1 to include the emergency services; ambulance, police, and firefighting and **MM4** identifies accessibility to services to include "*those that support health and wellbeing*". This ensures that GC Policy 1 represents an effective strategy to meet identified infrastructure needs.

38. Part B of GC Policy 1 identifies the Garden Community Neighbourhoods. In order not to prejudice the design process, phasing within the Garden Community will need to be agreed via an illustrative phasing plan to be submitted with the relevant planning application. **MM5** is therefore required to ensure flexibility is built into the DPD, so that the phasing of the Garden Community is agreed via the planning application and removes reference to any expectation that the development will begin in the South Neighbourhood which is not justified. Likewise, **MM6** is necessary for effectiveness and to provide a clear direction for the decision maker by adding flexibility to Part B of GC Policy 1 to reflect that the RTS and active travel modes are prioritised whilst recognising that an understanding of the network and road capacities will input and inform the masterplan for the Garden Community.

[1] TCBGC – Review of University of Essex Land Requirements, Wisher Consulting, 23 November 2022

39. To provide clarity, and therefore effectiveness, **MM7** deletes "*physically separated from*" at Part B to GC Policy 1. This adds flexibility to the outcomes of junction modelling along Bromley Road into Colchester, thereby allowing development of some parcels of land within the Crockleford Neighbourhood which may need access to the Link Road instead of Bromley Road.

40. To ensure it is effective and to acknowledge that existing and other public transport systems can support homes as well as the RTS, **MM8** amends the last sentence of the first paragraph on page 23 to include "*other public transport systems*". This also removes any pre-judgement of phasing at Crockleford. To clarify matters and to ensure the Policy is effective, **MM9** amends the fourth paragraph on page 24 removes reference to the "*Round Burrow*" which is unrelated to the context of Elmstead Strategic Green Gap. It also confirms the assets are designated heritage assets and adds the statutory listing status to those assets, so it is clear to the decision maker.

41. To provide clarity over the scope of sports facilities and to ensure it is effective, **MM10** amends Part F so that it is clear that the sports and leisure park will include where appropriate, the provision of indoor and outdoor floodlit facilities. To ensure the Policy is effective, **MM11** adds a new paragraph to Part F to ensure that clarity is provided for the decision maker that should the Park and Choose facility's location be south of the A133, it should not prejudice the expansion needs of the UoE, or the ability to meet the sports, leisure, and open space requirements of the wider Garden Community.

42. To provide flexibility and to ensure the Policy is effective, **MM12** amends Part J so that it is clear to the decision maker that the sustainable infrastructure and RTS are provided with the Park and Choose from the first residential phases of the development, opposed to the first phase which would not rely on public transport for its delivery. To ensure it is effective, **MM13** is a modification to Part K, so that it refers to the correct Appendix 3, which details the planning application requirements.

43. Subject to the above modifications, the overall approach of GC Policy 1 is consistent with the NPPF, and the NEASSS1P in seeking to positively promote its vision in delivering a Garden Community.

GC Policy 2 – Nature

44. GC Policy 2 sets out policy expectations of the Garden Community in relation to nature, and green and blue infrastructure. To ensure it is effective and to provide certainty for the decision maker, **MM18** deletes the last paragraph of Part A on page 39 and introduces a new paragraph at Part B, referring to

Suitable Alternative Natural Greenspace and is required to ensure that reference is made to the correct open space. To ensure that it remains effective **MM19** deals with the consequential amendments within the Policy, i.e. Part B becomes Part C and so on.

45. To ensure that the Policy is effective, **MM20** is required to amend the last paragraph of Part C (formerly Part B) on page 39 as the term "*green roof*" is referenced twice. The modification also amends the second reference to the second green roof to "*dual purpose street furniture*" as an alternative, to provide additional benefits to the character to the area, reducing clutter and benefitting biodiversity.

46. To ensure that the Policy remains effective and provides clarity to the decision maker, **MM21** recognises the consequential amendments at **MM19,** and Part C becomes Part D. Additionally, a new paragraph is inserted to clarify the requirements for ecological surveys, including wintering bird surveys, to ensure that ecological and biodiversity matters are fully considered as part of the proposed development. To ensure that the Policy is effective and responds to the current legislation, **MM90** removes reference to 15% Biodiversity Net Gain to ensure that BNG across the Garden Community is provided in accordance with current legislation of 10% BNG.

47. For effectiveness, **MM23** reinforces the need for planting and regeneration by amending the wording to the final Paragraph of Part F (previously Part E) from "*should be"* to "*will need to"*. For clarity and for certainty, **MM24** ensures that proposals that might lead to a deterioration in air quality will require the submission of an Air Quality Assessment. For effectiveness, consistency, and to strengthen the Policy, **MM25** proposes changes to the wording of Part K to secure the submission of appropriate details for biosecurity standards for sourcing, quarantining, and inspecting plant material supplied to the development.

48. For effectiveness, **MM26** adds a new paragraph to Part K.7 highlighting the requirement that proposals must be supported by an Air Quality Assessment to ensure that the safety and satisfactory quality of life of future residents are fully considered as part of the proposed development. For effectiveness and so that it is clear to the decision maker **MM27** adds an additional paragraph to the supporting text on page 46 to avoid ambiguity and to allow a detailed and tailored HRA process and to inform appropriate and proportionate mitigation requirements.

49. Subject to the above modifications, the overall approach of GC Policy 2 in delivering for nature is consistent with the NPPF, and the NEASSS1P in seeking to positively promote its vision for the Garden Community.

GC Policy 3 – Place Shaping Principles

50. GC Policy 3 sets out policy requirements for the Garden Community and the Councils expectations to provide a high-quality development that will create unique and distinctive buildings and neighbourhoods. To provide clarity for the decision maker and for effectiveness, **MM28** and **MM34** insert at Part A and I (formerly Part J) reference to Sport England's Active Design principles when considering healthy new towns to ensure accuracy on referenced requirements. For clarity and to ensure consistency throughout the DPD, **MM29** inserts the word "*multifunctional*" before "*green and blue infrastructure*" at Part B. For clarity, and therefore effectiveness, **MM30** retitles Part I to Part H and Part J to Part I and **MM31** adds a further paragraph to Part H to ensure that below ground archaeology is considered as part of any HIA.

51. For clarity and to ensure effectiveness, **MM32** adds a sentence to Part H to ensure that the DPD reflects the NPPF and avoids or minimises any conflict between preserving the significance of a specific heritage asset and any aspect of the proposal. To ensure it is clear of the decision maker and for effectiveness, **MM33** adds the grade of listing to the buildings identified within Part I. To ensure that the DPD refers to the correct document and so it is clear to the decision maker, **MM34** requires the Design and Access Statement to have regard to the Active Design Statement.

52. Subject to the above modifications, the overall approach to place shaping principles as set out within GC Policy 3 is consistent with the with the NPPF, and the NEASSS1P in seeking to positively promote its vision in delivering a Garden Community.

GC Policy 5 – Economic Activity and Employment

53. GC Policy 5 sets out policy expectations to create opportunities for employment, education, and training across the Garden Community. For effectiveness and to provide flexibility, **MM35** removes text within Part A which refers to "*employment area*" to ensure that the policy provides a balanced delivery of employment and residential uses. For effectiveness and clarity, to ensure that Part A is consistent with GC Policy 1, **MM36** changes the word "*rapid*" with "*fast*". It also removes reference to Colchester Business Park, as this is not on the RTS.

54. To ensure it remains effective, **MM37** inserts "*appropriate commercial, business and services uses*" to provide additional flexibility in allowing evidence and masterplanning to appropriately account for employment land and other employment generating uses in the neighbourhood areas. To ensure that the Policy remains effective and for clarity for the decision

maker, **MM38** adds a sentence that excludes students and retired households from the ambition to achieve one job per household.

55. Subject to the above modifications, the overall approach for economic activity and employment as set out within GC Policy 5 is consistent with the with the NPPF, and the NEASSS1P in seeking to positively promote its vision in delivering a Garden Community.

GC Policy 6 – Community and Social Infrastructure

56. GC Policy 6 sets out policy expectations to ensure that the Garden Community is served by community services and facilities of the right type in the right location. For effectiveness, and consistency with other parts of the DPD, **MM39** amends the narrative at paragraph 1 on page 78 to include "*health and wellbeing*" and "*ambulance, police, and firefighting*". For effectiveness and to ensure that it is clear for the decision maker, **MM40** removes the text "*and away from streets and car parks*" from Part C so that school zones are provided traffic free, but flexibility for accessible users and emergency vehicles is provided.

57. For effectiveness, **MM41** inserts additional wording within Part C to strengthen the links between health and education, promoting wellbeing through physical activity as well as providing storage areas for cycles. To ensure that it is effective, **MM42** inserts additional wording to Part C to provide additional clarity that the number of schools within the Garden Community should be evidence led and based upon the need and demographic studies at the time.

58. To ensure that it remains effective and refers to the latest evidence base document, **MM43** updates Part D to refer to the Colchester and Tendring Open Space, Playing Pitch, Outdoor Sports, and Built Facility – Overarching Strategy (2023). For effectiveness, **MM44** seeks to strengthen links to the university and shared sports facilities through the introduction of additional wording at Part D, referring to the potential role of the university's existing and future sports facilities in meeting the needs of the development.

59. For effectiveness and to ensure it is clear for the decision maker, **MM45** amends Part E to ensure that it represents an effective strategy for securing all types of healthcare infrastructure, including a new Health and Wellbeing Hub, to serve the new community. This will be achieved through the submission of Health Impact Assessments to include Joint Strategic Needs Assessments. For effectiveness, **MM46** amends Part G to ensure that all demographic studies commissioned by the developer provides a consistent evidence base to include healthcare facilities. This will also feed into the Health Impact Assessment.

60. To ensure that it remains effective and refers to the latest evidence base document, **MM47** updates Part G to refer to the Colchester and Tendring Open Space, Playing Pitch, Outdoor Sports, and Built Facility – Overarching Strategy (2023). **MM48** also amends Part G to provide clarity for the decision maker in securing community uses of education facilities. To ensure that the Policy is effective, **MM49** amends the text to paragraph 2 on page 86 to include key infrastructure and emergency services, "*ambulance, police, and firefighting*".

61. For effectiveness and to ensure that the decision maker is clear on the DPD's requirements, **MM50** stresses the importance of a robust Health Impact Assessment to be developed through collaborative work with the Councils', ECC, and NHS providers to be carried out as early as possible, through the insertion of a new paragraph to the supporting text of page 88 which sets out the health strategy for the Garden Community.

62. Subject to the above modifications, the overall approach for community and social infrastructure as set out within GC Policy 6 is consistent with the with the NPPF, and the NEASSS1P in seeking to positively promote its vision in delivering a Garden Community.

GC Policy 7 – Movement and Connections

63. GC Policy 7 sets out policy expectations in relation to Movement and Connections. The key objectives and principles for the Garden Community are to ensure neighbourhoods are walkable, low traffic and liveable, where residents can access most of daily needs with a 20-minute walk or safe bike ride from their home. For effectiveness and clarification, **MM51** amends the footer to the illustrative plan and inserts "*and the movement and connection features*" which will be the subject of further master planning and a Transport Assessment. This clarification is needed for the decision maker as the illustrative plan is the only depiction with vehicular locations in the DPD.

64. For effectiveness, **MM52** adds a sentence to Part A to provide some flexibility into the DPD to fully understand network and road capacities and how this will ultimately inform the masterplan work and vehicle access locations. To ensure it remains effective and for a clear direction to the decision maker, **MM53** amends Part A by adding text that refers to the targets required to reflect the ambitions for reducing car use over time. The Transport Assessment will establish targets based on forecasting and will be agreed with the highway and planning authority. For effectiveness and consistency within the DPD, **MM54** amends Part A and **MM68** amends Part K by deleting the word "*ensure*" and replacing it with "*enable and encourage*" to reflect that infrastructure can enable and encourage sustainable travel but not ensure it.

65. For effectiveness and to ensure consistent wording within the DPD, **MM55** deletes the word "*bus*" and replaces it with "*public transport*" at Part C whilst **MM56** corrects the wording of "*Authorities*" at Part J. For effectiveness, **MM57** replaces "*provide a direct link to*" with "*serve*" at Part D to ensure alignment with other policies within the DPD and to remove requirements that are too perspective, such as around school entrances which are to be vehicle free.

66. To ensure it remains effective, **MM58** amends Part D so that it refers to the first residential parcels rather than the first phases of development. This is required to ensure that flexibility is provided so that enabling and/or infrastructure works can be carried out prior to the provision of homes. For effectiveness, and to align with other parts of the DPD, **MM59** amends the second paragraph of Part D by adding the wording "*whilst providing for a fast service*" when referring to the RTS.

67. For clarity and therefore effectiveness, **MM60** adds a paragraph to secure the funding and delivery of the RTS. This is essential as sections of the RTS have been delivered through the Housing Infrastructure Fund by ECC and the modification will provide appropriate safeguards to carry forward the requirements of Policy SP6 of the NEASSS1P.

68. For effectiveness, **MM61** amends Part G by deleting "*ensures that there is no resulting*" and replacing it with "*seeks to avoid*" as the design of the development can seek to avoid overspill and inappropriate parking but cannot ensure it.

69. For the same reasons, **MM62** amends Part H so that the DPD takes account of the Transport Assessment and provides flexibility to understand the network and road capacities and how it will inform the masterplan work and ultimate transport strategy, mitigation packages and modal split targets. For effectiveness, **MM63** amends Part I to ensure that the capacity of the A133 junction is subject to detailed modelling and to protect the ability of the Southern Community to have access from the A133 and Tye Lane roundabouts on the Link Road. To ensure that the policy is effective and so that it is clear for the decision maker, **MM64** adds a new paragraph to the end of Part I to carry forward the requirements of the Section 1 Plan with reference to the full delivery and funding of the Link Road.

70. **MM65** amends Part J to ensure that monitoring of the Garden Community Travel Plan is agreed through the submission of the planning application, as this is essential over the long build out of the development. This is necessary for the policy to be effective. Flexibility is also required to ensure that transport infrastructure proposed within each phase addresses the transport conditions at the time. It also seeks to ensure that the Travel Plan reflects

the latest best practice and supports the mode share ambitions set out in the DPD and the supporting transport evidence.

71. In addition, **MM66** adds a new paragraph to Part J to ensure that external and internal travel modal splits are measured and monitored to ensure that targets are being met. This is necessary to ensure the policy is effective. For effectiveness and flexibility and so that it is clear to the decision maker, **MM67** amends the first paragraph to Part K to ensure that reference to the Transport Assessment to fully understand the network and road capacities and how it will inform the masterplan.

72. For effectiveness and clarity, **MM69** updates Part K to reflect the completion of the Healthy Streets for Life Assessment to ensure that it is provided at the appropriate stage of planning. For effectiveness, **MM70** amends Part K in relation to the Travel Plan targets that are to be submitted and monitored by the Councils by deleting "*annually from the outset*" with the text "*from the outset at a frequency to be agreed with the Councils*" as a development of this scale, annual monitoring does not give adequate time for the full cycle of monitoring, review, agreement of measures, implementation of measures, and evaluation of impacts of the interventions.

73. Subject to the above modifications, the overall approach for movements and connections as set out within GC Policy 7 is consistent with the with the NPPF, and the NEASSS1P in seeking to positively promote its vision in delivering a Garden Community.

GC Policy 8 – Sustainable Infrastructure

74. GC Policy 8 sets out the Councils expectations for creating a Garden Community that is for the future, embraces Garden Community principles, and incorporates measures to tackle climate change through Net Zero carbon emissions. The policy requires the construction of buildings with Net Zero carbon emissions which will be achieved through energy efficiency, the use of renewable energy generation and the absence of the use of fossil fuels at the Garden Community. The Councils confirm that this is in line with the current definition of Net Zero carbon in operation and is supported by the Low Energy Transformation Initiative and is fully considered within the Essex Design Guide which contains the Essex Net Zero Policy Study.

75. GC Policy 8 uses three metrics to separately measure each of the key attributes needed to achieve Net Zero. This is in comparison to the single performance metric of the Target Emissions Rate, which amalgamates into one metric a buildings effort in terms of energy efficiency, low carbon, heat, and renewable energy generation. Consequently, GC Policy 8 does go further than current or planned Building Regulations.

76. However, the Councils agreed a Statement of Common Ground[2] (SoCG) with the lead developer that the Garden Community shall meet the principles of Net Zero by cutting carbon emissions. Furthermore, GC Policy 8 builds upon all the work that has been done by the Councils and ECC, such as the Essex Net Zero Policy Study, and accords with the shared vision of the Council and developer. The aim to meet Net Zero throughout the Garden Community has also been subject to site specific viability testing. The developer has confirmed through the SoCG that the development is viable and that the completion estimates are in accordance with the current housing trajectory.

77. There is no evidence to suggest that, in this case, the longstanding aspiration for the garden community to meet the highest standards of sustainable design and construction measures would therefore make the development unviable or undevelopable over the plan period. It also builds upon the requirements of Policy SP8 of the NEASSS1P in seeking to secure the highest standards of energy efficiency and innovation in technology to reduce the impact of climate change across the Garden Community.

78. In reaching this decision I have had regard to the 2023 Written Ministerial Statement[3] (WMS), published after submission of the DPD for examination. However, whilst the WMS is a material consideration of significant weight, the Councils must prepare development plan documents that, in accordance with Section 19(1A) of the 2004 Act, include policies which contribute to the mitigation of, and adaption to, climate change. Additionally, Section 1 of the Planning and Energy Act 2008 states that local planning authorities may in their development plans include policies imposing reasonable requirements for development in their area to comply with energy efficiency standards that exceed the energy requirements of building regulations.

79. Consequently, in this particular case, I am satisfied that GC Policy 8 Part A is appropriate and justified. The policy provides the detail to a new garden community, which has been the aspiration of both Councils through the already adopted development plan, has been tested and demonstrated to be viable and is supported by a lead developer with shared aspirations to deliver an exemplar mixed-use development.

80. That being the case, to provide greater flexibility and for effectiveness, **MM71** is necessary and amends Part A to provide the developer with flexibility over the provision of net zero homes. This allows the developer, in exceptional circumstances, to agree a strategy to achieve Net Zero within five years of occupation of a building, rather than immediately following occupation. This will allow for net zero aspirations to be achieved across the

[2] Document SCG06 SoCG between Tendring District Council, Colchester City Council and Latimer Developments Limited

[3] Written Ministerial Statement, Lee Rowley MP, 13 December 2023

community as a whole, reflecting the fact that development is likely to come forward in phases. For effectiveness, **MM73** amends Part D to ensure the development meets expected Government targets in relation to water efficiency in water stressed areas.

81. For effectiveness, **MM74** includes a new sentence at the end of the second paragraph on page 121 to ensure that reference is made to the Garden Community being within the Essex Climate Action Commission's recommended Climate Focus Area, which is necessary to ensure that the proposed development does not emit more carbon than it absorbs, thus contributing towards the Climate Focus Area's targets

82. Subject to the above modifications, the overall approach for sustainable infrastructure as set out within GC Policy 8 is consistent with the with the NPPF, and the NEASSS1P in seeking to positively promote its vision in delivering a Garden Community.

GC Policy 9 – Infrastructure Delivery and Impact Mitigation

83. GC Policy 9 seeks to secure the required infrastructure required to support and deliver the Garden Community. Part A sets out the mechanism for the delivery of the infrastructure as set out within the Infrastructure Delivery Plan. However, for clarity and thus, effectiveness, **MM75** and **MM80** alter the wording to reflect the current "*Infrastructure Delivery, Phasing & funding Plan*" to Part A and the final paragraph of page 130 to ensure that the terminology of the evidence base aligns with the Infrastructure Delivery Plan.

84. To ensure that the policy is effective, **MM76** amends Part A by removing the text "*in accordance with"* and replaces it with "*taking into account the conditions of*". This allows some flexibility without altering the intent of the Policy in securing funding for the wider transport infrastructure, including the A120-A133 Link Road and the RTS.

85. To ensure that the Policy is effective and consistent with the remainder of the DPD, **MM78** amends paragraph 1 on page 129 to include the emergency services, ambulance, police, and firefighting. For effectiveness and clarity, **MM79** amends the second paragraph on page 130 to indicate that a viability assessment would only be required if a proposal was not achieving its required delivery due to viability matters.

86. For effectiveness and clarity, **MM81** amends the third paragraph of page 131 and inserts the text "*the first phase of the*" to ensure it is clear that the works for the first phase of the A120-A133 Link Road relates to the Housing

Infrastructure Fund. For effectives and to ensure it is clear how the DPD will be monitored over time, **MM82** adds an additional paragraph before the table of objectives and indicators on page 132 stating, amongst other things, when monitoring will be undertaken, where the results will be published, and what it will focus on.

87. To ensure it is effective and for clarification, **MM83** updates Objective 9 on page 134 to include the text "*to education (and other land uses)*". **MM84** also clarifies Objective 7 on page 133 to include permissions which are granted that affect a designated heritage asset.

88. Subject to the above modifications, the overall approach for infrastructure delivery and impact mitigation as set out within GC Policy 9 is consistent with the with the NPPF, and the NEASSS1P in seeking to positively promote its vision in delivering a Garden Community.

89. GC Policy 4 seeks to ensure the effective use of land at the Garden Community. Moreover, in taking forward with the requirements of the NEASSS1P, new homes within the Garden Community will be of a high standard that will meet a variety of different needs and demands for people and families. This includes the Councils' expectations around housing mix, density, and space standards.

90. Subject to the modifications identified above, the DPDs Spatial Development Strategy is based on robust evidence, justified, and is it 'general conformity' with the NEASSS1P and as such it is likely to be effective in delivering between 7,000 and 9,000 new homes in the plan period.

Glossary

91. To ensure consistency with national policy, and for clarity, **MM85** amends the definition of a Gypsies and travellers to include those that have ceased to travel permanently. For effectiveness and clarity, **MM86** adds the text to BNG) "*as specified in the Environment Act (or otherwise agreed)*" so it is clear what the BNG will be measured against. For effectiveness and clarity, **MM87** updates the medical services which are considered as community facilities to include emergency and acute inpatient and outpatient facilities.

92. To ensure that the Policy is effective and consistency with the remainder of the DPD, **MM88** amends the definition of infrastructure to include the emergency services ambulance, police, and firefighting.

93. For effectiveness and clarity, **MM89** adds Appendix 4: Section 2 Plan Status so that it is clear which policies from the Tendring Colchester Section 2 Plan

do not apply to the Site Allocation Boundary of the Garden Community. For effectiveness, **MM91** removes all reference to the Community Infrastructure Levy, as this will be the subject of an independent examination.

Monitoring and Delivery

94. The DPD contains a chapter on the monitoring of the Garden Community and both Councils will utilise their Authority Monitoring Reports to monitor the performance of the DPD and these provide the necessary evidence on which to assess the success or failure of delivery, and what alternatives might reasonably be provided if necessary. The monitoring regime should ensure that any risks to non-delivery are 'flagged up' and interventions made to alleviate risks should this prove necessary.

Overall Conclusion and Recommendation

95. The DPD has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.

96. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that the Duty to Cooperate has been met and that with the recommended main modifications set out in the Appendix A, the DPD satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound. My report covers the main issues that have led me to this conclusion.

Graham Wyatt
Inspector

This report is accompanied by an Appendix containing the Main Modifications.