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MAIN MATTER 2

AND

MAIN MATTER 9

Policy SG1: Colchester's Spatial Strategy

Policy SG2: Housing Delivery

Policy SS9: Langham

Policy SS11: Marks Tey

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Submissions

1. The Spatial Strategy for Colchester cannot be viewed in isolation but as a localised part of the wider Spatial Strategy for North Essex in the now adopted Section 1 Joint Local Plan. That Strategic Vision for North Essex was formulated on the basis that 3 large new Garden Communities would be the foci for long term growth across North Essex alongside the expansion of existing sustainable settlements. Whilst the Garden Communities would only deliver a limited number of new houses pre-2033, some 7,500 in total, they were promoted as the most sustainable form of development and they dominated the thinking and text of the submitted Section 1 and 2 Vision, Spatial Strategy and Policies.
2. The Council now claims that the rejection of one of the two Garden Communities lying partially within the Borough requires no radical change to its Section 2 Spatial Strategy as there is a sufficient contingency within the Plan to obviate the need for supplementary housing provision. Whilst that might be so in purely numerical terms, it misses the point that the main objective of the pre-2033 planning strategy was to provide a foundation for a long-term spatial strategy whereby new Garden Communities would absorb major growth and divert growth from existing settlements particularly after 2033. That objective, of course, has been seriously compromised by the rejection of the Colchester Braintree Borders Garden Community (CBBGC) which was by far the largest of the three Garden Communities being promoted. The CBBGC was earmarked to deliver 15,000 - 24,000 dwellings compared to only 7,000 - 9,000 dwellings for the surviving Tendring Colchester Borders Garden Community (TCBCC) - the former therefore being potentially three times larger than the latter whose housing capacity lies largely in Tendring District in any event. The removal of the CBBGC from the Section 1 Plan represents a major shift in the Spatial Strategy for both North Essex and Colchester Borough and has consequences for the Section 2 Plan which go far further and deeper than can be achieved by minor textual and graphical modifications.
3. Following the demise of the CBBGC, the Examining Inspectors are now asked to endorse a radically revised Spatial Strategy for Colchester Borough which fundamentally reduces the role of Garden Communities. It is argued by the Council that such a seismic change in the strategy has no material consequences for the spatial distribution of housing within the Plan period. In other words, that the distribution of growth within existing settlements (*and* the amount of housing apportioned to each settlement in the Plan) constitutes a sound strategy in its own right and is largely unaffected by the subsequent reduction in the role of Garden Communities in the Spatial Strategy. Also, specifically, as the Plan's housing provision exceeds the required housing needs figure, the existing commitments, allocations and windfall sites which comprise this excess provision is sufficient to compensate for the loss of housing provision within a single location previously promoted as the optimal location, namely focusing major investment in housing employment, community services and transportation to the west of Colchester. On that basis, the new narrative is that there is no need to revisit the Spatial Strategy to consider the implications of the reduced role of Garden Communities on the sole ground that alternative provision has been made

elsewhere. Finally, the Council asserts that with the removal of most of the capacity that would have been delivered via the Garden Communities in the post-2033 period, there is no longer a need to plan for major longer-term growth for the post-2033 period and this can be largely shelved as far as this Local Plan is concerned.

4. There are, however, various consequences arising from the radically amended Spatial Strategy which are relevant to the soundness of the Section 2 Plan which are addressed below.
5. The selection of allocations in the Section 2 Local Plan should reflect Policy SP3 of the Section 1 Local Plan which states: *"Existing settlements will be the principal focus of additional growth across the North Essex Authorities area...Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role..."*. Reference is also made to a requirement that: *"development locations are accessible by a choice of travel."* It then states that: *"In Section 2 of its Local Plan, each authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs."* Considering the role of Marks Tey in relation to these factors, it appears in Policy SG1 as a Sustainable Settlement but with a zero housing provision in the Table in Policy SG2. It is submitted this is insufficiently justified. As noted above, the Council claims that it has made sufficient housing capacity to obviate the need for any replacement provision to compensate for lost pre-2033 capacity in the CBBGC. However, it has not demonstrated that this surplus capacity is as sustainably located as that which has been lost in the western parts of the Borough nor has it justified or explained why Marks Tey is the only Sustainable Settlement without any new housing provision in Policy SG2, especially having regard to the terms of Policy SP3 in the Section 1 Plan.
6. If, in response to the alleged failure to make reasonable housing provision at Marks Tey in the LP, it is stated that this is to be delivered via the Marks Tey Neighbourhood Plan, that has not been the practice in relation to all the other Neighbourhood Plans within the Borough. In any event, the Marks Tey NP Submission Consultation document (2021) does not contain any housing allocations - noting in para. 3.12: *"The emerging Local Plan does not include a housing requirement figure to be delivered through the Marks Tey Neighbourhood Plan"* whilst also citing uncertainties surrounding the A12 and A120 improvements before such allocations can be considered. In this latter respect, Local Plan Modifications 125 and 153 record that: *"The A120 be considered for inclusion in the RIS3 programme 2025-2030"*. That is not a definite programming and raises the prospect of many years of delay before any housing allocations are made at Marks Tey even where such proposals have little or no reliance or impact in relation to the implementation of trunk road schemes.
7. Turning for a final time to the Council's reliance on surplus provision in the Plan, we note that 400 of the overall housing provision is earmarked for Tiptree - replacing the former figure of 600 prior to the release of land at Barbrook Lane on Appeal. With the acceptance

of the Tiptree Neighbourhood Plan Inspector's recommendation that the NP should not proceed to a referendum, this provision remains unallocated. Whilst we have no grounds to suggest that the Marks Tey NP will experience the same difficulty as its Tiptree counterpart, we note that Policy SG8 is the subject of modification 92, namely: ***"If Neighbourhood Plans are delayed or fail, subsequent planning applications will be determined in accordance with Policy/Table 2."*** Whilst that might enable housing provision to be made in Tiptree and other NP's for settlements which have a defined number of dwellings, the position would not change in Marks Tey in view of its zero provision in Policy SG2.

8. It is therefore not accepted that a zero provision at Marks Tey is justified by the provision being made elsewhere, by the provision being delegated to a NP, or by any provision being held to be premature in relation to highway schemes. The absence of any provision at Marks Tey is not consistent with Policy SP3 in the Section 1 Plan.
9. It is therefore likely that settlements in the western parts of the Borough within the hinterland of the CBBGC would have been considered suitable for higher levels of growth had this particular Garden Community proposal not been promoted by the Council. This would have followed from the accessibility of this part of the Borough to Colchester and to the A12 and the A120 trunk roads as well as to the main railway line.
10. With regard to Marks Tey, as noted, it has no new housing allocations in the Section 2 Plan and appears in Table SG1 with a zero new housing target - yet it is classified as a Sustainable Settlement and is arguably the most strategically located village in the Borough in view of its position at the junction of two trunk roads and its mainline railway station. (The only other Sustainable Settlement without any Housing Provision is Dedham which is excluded from the Table in Policy SG2 in any event). Such a policy choice requires clear reasoned justification on the face of the Plan having regard to Regulation 8 (2) in the Local Plan Regulations and Paragraph 35(b) in the NPPF. To date this has not been provided.
11. One is therefore left wondering what provision would have been made for Marks Tey if the CBBGC had not been promoted - and which omission sites would have been included at Marks Tey had it not been for the now-aborted Garden Community proposals. My Practice represents landowners with duly made representations relating to two sites at Marks Tey (Mill Lane and The Car Boot Field – London Road) both abutting the Settlement Boundary but both rejected because of the absence of any allocations due to the CBBGC project. With its removal from the Plan, my Clients have a reasonable right to expect that the merits of their proposed housing sites be reconsidered in the context of the amended Spatial Strategy and associated modifications and not left by the wayside now that the strategy has changed. Marks Tey is the only Sustainable Settlement listed in Policy SG2 without any allocations - a situation which has arisen because of the vacuum left by the removal of CBBGC.
12. The point being made is that omission sites in those settlements blighted or otherwise affected by the Garden Community project for many years should now be reconsidered as

part of the modified Spatial Strategy. It is self-evident that with the removal of this Garden Community from the Plan, the Council should have re-considered its own proposals and the omission sites relating to settlements within the vicinity of this abandoned Garden Community scheme – especially as the Plan’s housing provision represents a minimum requirement. It has not done so. All such issues demonstrate that there are consequences arising from the deletion of the Garden Community and the failure of the Council to address these consequences undermines the soundness of the Plan.

13. In light of the above, it is also considered that a more far-reaching reappraisal of the Spatial Strategy should have been undertaken following the deletion of the CBBGC. If the Section 2 Plan had been prepared from the outset to accommodate only the TCBGC, it is likely that the Spatial Strategy and allocations would have been very different. However, as things have transpired, the pre-2033 housing provision that would have been delivered by the CBBGC is now made up of a "surplus" or "contingency" housing figure to be delivered in a myriad of different sites spreadeagled across the Borough. It is an aggregate figure which demonstrates an ability to make sufficient housing provision rather than achieved through the conscious identification of sustainable housing allocations and justified in the context of its Spatial Strategy.
14. In order to off-set the loss of housing provision arising from the deletion of the CBBGC scheme, it would also have been possible to consider smaller scale Garden Communities in the range of 500-750 dwellings - a strategy which was never adequately evaluated notwithstanding that such was promoted for land at Langham (ie: north of Park Road) as a smaller scale version of the larger Langham Garden Community scheme. (The latter was evaluated in the second Sustainability Appraisal for the Section 1 Plan and found to be equally as sustainable as the Colchester Tendring Borders Garden Community before it was subsequently rejected by the North Essex Authorities). In re-allocating the lost housing capacity from the CBBGC, there is an opportunity to review the role smaller scale Garden Communities could make to the Spatial Strategy rather than the dispersed surplus provision relied upon by the Council. Langham (Policy SS9) is already identified as a Sustainable Settlement but the Plan fails to recognise the housing potential of this location for future housing or its ability to contribute to the loss of capacity from the CBBGC.

Conclusion

15. It is therefore submitted that following the loss of a pre-2033 capacity of 1,350 dwelling from the CBBGC, as a matter of principle the Council should have reviewed the implications and the opportunities for re-directing that capacity to other sustainable locations. Potential examples have been cited at Marks Tey and Langham. The fact that, by chance, the Council is able to claim a surplus over and above its housing requirement is an insufficient ground to avoid making good the lost capacity from this aborted Garden Community unless the Council can demonstrate that the composition of this surplus represents an equally sustainable provision to that it previously claimed for the CBBGC itself. To obviate the need to demonstrate this, the logical course for the Council to take

would be to replace the lost provision via new allocations based on the template provided by its Spatial Hierarchy - a course which the Council has failed to follow. As a consequence, many omission sites which might have come into play and secured allocations have been rejected whilst the Council's case for not making compensatory allocations for the loss of Garden Community capacity has not been adequately justified.

16. The absence of any evaluation of the most sustainable way of making good the lost capacity of the CBBGC and the failure to review omission sites as part of that process in order to modify the Section 2 Plan has resulted in the Spatial Strategy and associated Housing Provision not being appropriately justified. Accordingly, it is considered that the Plan in its current form is unsound.

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