

AGENDA ITEM 7

Report to Cabinet	Forward Plan reference number: FP/376/01/16
Date of Meeting: 16 February 2016	County Divisions affected by the decision: All Divisions in Braintree, Colchester and Tendring Districts
Title of report: Decision as to whether ECC should participate in a new entity to deliver Garden Settlements in North Essex	
Report by Councillor Roger Hirst, Cabinet Member for Planning, Transport and the Environment	
Responsible Director: Andrew Cook – Director of Operations – Environment and Economy	
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1. Purpose of report

- 1.1 To explain the proposals for ‘garden settlements’ in North Essex and to seek Cabinet’s on-going support, working together with the district councils of Braintree, Colchester and Tendring to progress the idea.
- 1.2 To note the award of £640,000 of grant assistance from the Department of Communities and Local Government (DCLG) for information and to note that a Joint Shadow Delivery Board has been set up to oversee delivery of the project.
- 1.3 To agree in principle that the Council should participate in a legal entity created for the purpose of delivering garden settlements (‘a special purpose vehicle’). Cabinet are asked to agree that the Cabinet Member for Planning, Transport and the Environment may approve the final form of such an entity.
- 1.4 To note that this proposal does not yet have financial implications for the Council and that by approving the recommendations in this report the Council is not committing to any financial obligations.

2 Recommendations

- 2.1 That Cabinet is pleased to note the successful outcome of the recent bid for grant funding from Department of Communities and Local Government which will enable the Garden Settlements concept to be progressed and which will provide on-going support for partnership working between Colchester Borough Council, Braintree District Council, Tendring District Council and Essex County Council to deliver the project and note that the grant funding is being held by Colchester Borough Council on behalf of the North Essex Garden Settlements Project.
- 2.2 Agree that the Cabinet Member for Planning Transport and the Environment or their deputy will represent the Council, in accordance with the Council's Constitution, on the Joint Delivery Board in accordance with the Governance Structure, set out in Appendix A.
- 2.3 To note that the grant funding is being held by Colchester Borough Council on behalf of the North Essex Garden Settlements Project.
- 2.4 Agree that the Cabinet Member for Planning Transport and the Environment be authorised to agree to establish and participate in a special purpose vehicle for delivery of the project.
- 2.5 Agree that the Cabinet Member for Planning, Transport and The Environment will determine officer and member representation on the special purpose vehicle.
- 2.6 Note that should there be any material changes or substantial financial investment by the Council is required, further requests will be made in accordance with the Constitution.

3 Background and proposal

- 3.1 In the work being carried by Tendring District Council, Colchester Borough Council and Braintree District Council on their respective Local Plans, the potential for new major developments in the form of new 'garden settlements' has been identified as a possible means of meeting future growth requirements. Possible locations for garden settlements have been identified.
- 3.2 In accordance with the Duty to Cooperate, the Council is working closely with the three district councils who are at similar stages in their respective Local Plan preparation, to plan effectively for the long term. As part of this process, the four councils are thinking strategically, are not being restricted by current plan making time horizons and are considering whether Garden Settlements could address some of this long term need both within the plan period and beyond.

What are Garden Cities (or Garden Settlements)?

- 3.3 Garden Cities are described by the Town & Country Planning Association (a charitable organisation) (TCPA) as *'holistically planned new settlements which enhance the natural environment and offer high-quality affordable housing and locally accessible work in beautiful, healthy and sociable communities'*.
- 3.4 Garden Cities are underpinned by a set of principles. These principles have evolved from Ebenezer Howard's original vision in 1898 which described how *'the advantages of the most energetic and active town life, with all the beauty and delight of the country, may be secured in perfect combination'* and include:
- land value capture for the benefit of the community;
 - strong vision, leadership and community engagement;
 - community ownership of land and long-term stewardship of assets;
 - mixed-tenure homes and housing types that are affordable for ordinary people;
 - a strong local jobs offer in the Garden City itself, with a variety of employment opportunities within easy commuting distance of homes;
 - beautifully and imaginatively designed homes with gardens, combining the very best of town and country living to create healthy homes in vibrant communities;
 - generous green space linked to the wider natural environment, including a surrounding belt of countryside to prevent sprawl, well connected and biodiversity rich public parks, and a mix of public and private networks of well-managed, high quality gardens, tree lined streets and open spaces;
 - opportunities for residents to grow their own food, including generous allotments;
 - strong local cultural, recreational and shopping facilities in walkable neighbourhoods; and
 - integrated and accessible local transport systems with walking, cycling and public transport being the most convenient and affordable – with a series of settlements linked by rapid transport providing a full range of employment opportunities (as set out in Ebenezer Howard's vision of the 'Social City' in his book – *To-Morrow: A Peaceful Path to Real Reform* (1898)).
- 3.5 In terms of scale, the Government has indicated that Garden Cities should comprise approximately 15,000 dwellings and above, as well as associated employment, green space and infrastructure, with the expectation that it would take longer than one plan period to deliver these new communities. Additionally, there could be scope to apply Garden City Principles including land value capture to smaller settlements.
- 3.6 Garden City Developments CIC (GCD), a not for profit community interest company has been appointed by the four councils to promote and establish partnerships with local landowners and option holders to investigate the feasibility of the proposed Garden Cities.

- 3.7 GCD has met Members from each Council, has held numerous meetings with key landowners, and is currently undertaking discussions with these landowners and option holders.
- 3.8 The intention of these discussions is to develop the Councils' options around applying land value capture and long term stewardship arrangements for the community assets created as part of the development, and to specifically explore landowners' appetites for engaging with the councils on these issues and willingness to enter legally binding agreements with the respective councils.
- 3.9 Parallel to this, the local planning authorities are also actively seeking to evolve the policy process to further endorse the emerging concepts – the result being that all three district councils may decide to identify a Garden Settlement as a broad location for growth in their Local Plan Preferred Options.
- 3.10 Should some or all of the districts decide to proceed with a Garden Settlement as part of their Preferred Options, depending on its location, dedicated Development Plan Documents would be prepared for each settlement once the principle has been agreed. This process will allow for extensive community consultation and participation very early on in the process.
- 3.11 It is noted that the consideration of new Garden Settlements is considered visionary and at the forefront of current strategic planning thinking. In principle support for the proposals has already been obtained from Government and the Councils are also receiving assistance from the Major Projects Division of the Homes and Communities Agency (ATLAS).
- 3.12 It is envisaged that the delivery of new Garden Settlements could assist in a commitment to a viable and committed housing trajectory across the Councils beyond the proposed Local Plan period.

Outcome of DCLG Bid

- 3.13 The district councils are already expending considerable sums as part of their formal plan making processes. The strategic scale and associated timing of potential Garden Settlements is beyond what any Council has dealt with over recent times and as such focus, dedicated resources, specialist advice and support is required to develop proposals – particularly at this early stage when the 'ask' and scope is still being defined and refined.
- 3.14 It is for this reason that in 2014, the DCLG issued a prospectus entitled '*Locally-led Garden Cities*'. This document invited expressions of interest from Councils interested in developing new Garden Settlements, along with an indication of how Government could support such development.

- 3.15 In response to this prospectus, the Councils bid for, and have been successful in obtaining, dedicated funding of £640,000 from the DCLG to further investigate the feasibility of Garden Settlements.
- 3.16 This funding will assist in facilitating a number of work streams that will need support to develop emerging proposals, to meet key milestones and secure delivery. These include brokerage assistance, direct planning support and capacity funding. The funding will also enable the Councils to both dedicate sufficient technical input, and undertake a range of key studies and assessments.

Governance Structure:

- 3.17 To commence the strategic thinking around garden village settlements and prior to the bid funding being received, an interim governance structure had been set up through the Councils' joint working. It was always anticipated that if the joint funding bid to the Department of Communities and Local Government was successful, these governance arrangements would be reviewed and refreshed to respond to the following project drivers:
- Clarity on how decisions on investment and other key areas will be made;
 - Streamlining of the Shadow Delivery Board and Steering Group roles to reflect decisions that may need to be made during the coming year;
 - Use & management of DCLG funding for commissioning substantive areas of consultancy support for master-planning, legal and financial work;
 - Cross boundary working on strategic planning issues and associated evidence base relevant to the garden settlements between local authorities to complement the preparation of individual Local Plans;
 - Need to maintain focus in light of the number of diverse workstreams related to the garden settlements running in tandem
- 3.18 A refreshed Governance Structure for Garden Settlements has been proposed by ATLAS to the Steering Group for adoption by the Joint Shadow Delivery Board and is attached as **Appendix A**.
- 3.19 It is recommended that the Cabinet Member for Planning Transport and the Environment or their deputy would sit on the Joint Delivery Shadow Board, supported by appropriate officers on the Steering Group and delivery teams as appropriate. The governance structure may require further revision as the project evolves.

Special Purpose Delivery Vehicle

- 3.20 Garden Cities Developments (GCD) has been engaged by the Councils to assist with this project. The land under consideration is owned by third parties. Initial discussions have commenced with the landowners. One concern expressed by landowners is whether the Councils are able to deliver the development. GCD have advised that the creation of a separate delivery vehicle for this purpose will help demonstrate that the Councils are serious

and committed to the project and therefore aid their discussions with landowners. The Joint Shadow Delivery Board received some legal advice providing an analysis of delivery vehicle options, taking into account the fact that the development:

- Is likely to take decades to complete;
- Will need to be undertaken by co-operation with the landowner;
- Will need to find a way of 'capturing land value' for the community'; and
- Will need to find a way of securing long term stewardship of the community assets.

3.21 Possible forms of delivery vehicle were considered, accepting that the advice was limited as no final development model has been identified. The vehicle needs (as far as possible) to be:

- Established quickly, to assist with the establishment of credibility;
- Flexible, given the uncertainty as to how the model might work;
- Designed with transition in mind – so it can move from a body with a delivery role vehicle to a vehicle which exercises long term stewardship of assets;
- Able to access finance (either from the Councils via prudential borrowing or commercial borrowing guaranteed by Councils); and
- Able to buy and sell land and hold significant contracts with landowners.

3.22 There are factors which always need to be considered when establishing an external entity. These are:

- Ability to distribute surpluses;
- Ability to reflect ownership;
- Security/stewardship of assets;
- Procurement law;
- State Aid; and
- Taxation

3.23 In addition to considering a vehicle structure the number of delivery bodies needs to be explored. Options are:

- (1) Single entity to deliver all projects across the three districts.
- (2) A single entity to co-ordinate all projects with a SPV subsidiary for each project. The SPV for each project could be part owned by developers/landowners.
- (3) One entity for each project.

3.24 The Joint Shadow Delivery Board favoured an overarching corporate entity wholly owned by the all the Councils, which will have the ability to set up separate single special purpose vehicles for each site/project, if required.

- 3.25 On this basis further advice is being commissioned to run parallel with the various concept phasing, to ensure that once the preferred type of development model is known the appropriate delivery vehicle can be established, thereby preventing any unnecessary delay to the progress of the project. For this reason it is proposed that the Cabinet Member authorises the appropriate delivery vehicle, in consultation with the Council's Section 151 and Monitoring Officer.

4 Policy context and Outcomes Framework

- 4.1 The garden settlement proposals will help deliver the aims of *A Vision for Essex 2013-17* to develop and maintain infrastructure. A key aim of garden cities is for the community to have responsibility for key assets which will improve the resilience of these communities.

5 Financial Implications

- 5.1 There is a £646,000 grant from the Department of Local Government and Communities. It is confirmed that the funding will be received by Colchester Borough Council as a Section 31 grant (of the Local Government Act 2003), which will be used for the next stages of the project, in accordance with the bid.
- 5.2 The project is still at an early stage, and the full financial implications for the authorities involved have not as yet been determined. The project may need to externally borrow significant sums, as well as source funding within existing resources within the overall context of our medium term forecasts / treasury strategies. This will be discussed in detail between the Chief Financial Officers of each authority, with the outcomes being subject to further decisions as the project progresses. No expenditure over and above the grant is committed at this stage.

6 Legal Implications

- 6.1 There will be a need for legal advice as part of the delivery of the project. The schemes will need agreement with relevant landowners to ensure that the development is undertaken in accordance with garden city principles. The agreement will need to comply with the principles of state aid and, if necessary, procurement law. Since the development model has not yet been finalised it is not possible to give advice on this, but it is likely to be the new entity and not ECC which enters into these agreements.
- 6.2 Any entity created will have limited liability which means that ECC will not be liable for the debts of the entity. The Localism Act 2011 gives ECC the power to create companies and other legal entities in appropriate circumstances.

7 Staffing and other resource implications

- 7.1 ECC's role within the garden settlement project is being undertaken by ECC staff within existing resources. There is a project officer employed by the districts which will be funded by the DCLG grant. This has no financial impact on ECC.

8 Equality and Diversity implications

- 8.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 8.3 The equality impact assessment indicates that the proposals in this report will/will not have an adverse impact on any people with a particular characteristic. Indeed the new settlements will have a positive impact on disabled people because it will be a new settlement with new infrastructure, all of which meets current accessibility requirements. The planning of the new settlements will take account of the demography of the area. Delivery of new homes will help relieve the shortage of housing in Essex.

9 List of Appendices

(available at www.essex.gov.uk if not circulated with this report)

Appendix A Governance structure.

10 List of Background Papers

Bid for CLG funding submitted by the four local authorities.

(Any request for any background papers listed here should be made to the person named at the front of the report who will be able to help with any enquiries)