

<b>Report title:</b> North Essex Garden Communities Ltd – Approval of 2019/20 Interim Business Plan and Budget	
<b>Report to:</b> Councillor David Finch, Leader of the Council	
<b>Report author:</b> Steve Evison, Interim Director, Strategic Commissioning and Policy, Place and Public Health	
<b>Date:</b> 2 October 2019	<b>For:</b> Decision
<b>Enquiries to:</b> Steve Evison email <a href="mailto:steve.evison@essex.gov.uk">steve.evison@essex.gov.uk</a>	
<b>County Divisions affected:</b> All Essex	

## 1. Purpose of the Report

- 1.1 This report asks the Leader to agree that the Council, as one of the 4 shareholders, continues to support North Essex Garden Communities Ltd as the strategic delivery vehicle for the North Essex Garden Communities projects through approval of the 2019/20 Interim Business Plan and Budget. This report therefore seeks agreement to commit £350,000 from the Council subject to a formal request from NEGC Ltd Board, this is within the allocation identified in your 19/20 Garden Communities budget. The report also provides an update on overall progress to date.

## 2 Recommendation

- 2.1 To approve the 2019/20 Interim Business Plan and Budget (subject to confirmation of government funding) for NEGC Ltd as attached at Appendix A;
- 2.2 To authorise the Section 151 Officer to agree any future allocation of the project funds held by Colchester Borough Council between NEGC Ltd and the North Essex Authorities;
- 2.3 To approve committing £350,000 from the Garden Communities Budget and authorise the Director, Strategic Commissioning and Policy to agree to phased drawdowns upon a formal request by way of a NEGC Board resolution in accordance with the agreed milestones.
- 2.4 To note that a report will be brought forward with respect to funding requirements and financing options for 2020/21 and 2021/22.

## 3 Summary of Issue

### Executive Summary

- 3.1 At its meeting on 17 July 2019 the Board of NEGC Ltd agreed an Interim Business Plan for 2019-20 for approval by its shareholders setting out the vision, objectives, workstreams and funding requirements for the company in order to continue to support delivery of North Essex Garden Communities. The primary tasks during the year are to assist the North Essex Authorities with the work required for the Local Plan Section 1 Examination in Public; undertake public engagement to increase awareness and understanding of a range of key topic areas relevant to the garden community principles; evolve the approach to economic development, masterplanning, innovation, programme funding, governance and delivery, including consideration of the transition towards a locally-led development corporation as one of a number of delivery vehicle options for the NEGC project. The potential for the establishment of a locally-led Development Corporation will form part of an options appraisal for future delivery of the NEGC programme.
- 3.2 The 2019-20 Interim Business Plan is a precursor to the future preparation at the appropriate time of a 5-year Business Plan, which will be progressed when further progress is made with the Section 1 of the district councils' local plans. This is considered to be the best, and most prudent, approach to ensuring that NEGC Ltd continues to deliver positive outcomes on behalf of shareholders and grant funders as the overall North Essex Garden Communities project progresses.
- 3.3 At the end of March 2019 the four council shareholders of NEGC Ltd agreed the following milestones:
- Local Plan (submission of evidence) – October 2019
  - NEGC Public Engagement – October & November 2019
  - Outline Business Case for Delivery Options – initial draft in November 2019 and final draft in January for Council approval in February & March 2020
  - NEGC Business Plan 2020/21 & 2021/22 – initial draft in November 2019 and final draft in January 2020 for Council approval in February & March 2020
- 3.4 The 2019-20 Interim Business Plan includes a draft budget for 2019/20, which requires agreement of shareholders (as part of agreeing the Interim Business Plan). The draft budget for 2019/20 includes expenditure of £2.131m. The assumed income includes an additional £350,000 phased contribution from each shareholder Council within 2019/20, which is subject to review. The budget currently assumes an additional £600,000 from Government in 2019/20. A final determination is still awaited on the exact amount of Government support; however, in the event that this support is less than is assumed, NEGC Ltd will scale back and/or cease certain activities contained within the 2019/20 Interim Business Plan so as to mitigate the budget shortfall. In these circumstances Councils will be provided with a further update. The balance of £131,000 will be funded from income received in 2018/19 and carried forward into 2019/20.
- 3.5 To date the funding and spending for the NEGC project has mostly taken place through Colchester Borough Council's accounts. The Interim Business

Plan assumes that at some point in the future a significant part of the 2019/20 budget will pass to NEGC Ltd, with the remainder of costs retained within Colchester Borough Council's accounts. The allocation of costs will be based on assumptions of which costs should be appropriately met by NEGC Ltd. It is proposed that this allocation will be determined by the shareholder council's Section 151 officers.

- 3.6 Beyond 2019/20 and assuming that Section 1 of the Local Plans has been adopted by the North Essex planning authorities, it would then be an appropriate time to move away from public revenue (grant) funding and obtain securitised external finance to fund the progression of detailed planning and set-up of the preferred delivery vehicle. It is envisaged that this set-up process will begin in 2020/21 and take around two years with a budget in the range of £16m to £20m across a two-year period. Depending on the type and nature of external finance obtained it is anticipated that there would be a need for on-going financial undertakings or support from shareholders. Thereafter, it is envisaged that longer-term finance will be required to support 'on the ground' development activity from 2022/23 onwards, which would also be used to pay back the shorter-term finance required for 2020/21 and 2021/22.
- 3.7 This report also references the importance of the topic of Garden Community stewardship and how detailed consideration of this issue by the Councils will be required in the near future.
- 3.8 Note that this report does not, other than for information, address any Local Plan issues. Decisions relating to the Local Plan and any wider planning functions are dealt with separately. Any decisions made in relation to, or by, NEGC Ltd cannot predetermine or prejudice the outcome of the proper Local Plan process.

## **4 Alternative Options**

- 4.1 No further options are being presented within the context of this report, as the alternative decision would be not to approve the 2019/20 Interim Business Plan and Budget.

## **5 Background Information**

- 5.1 North Essex Garden Communities Ltd (NEGC Ltd) was established in January 2017 by Colchester Borough, Braintree and Tendring District and Essex County Councils (the company shareholders) and is the current strategic delivery vehicle for the North Essex Garden Communities project. The basis for this is the Councils shared ambition to promote, plan and deliver sustainable strategic growth at scale and over the long-term; providing the housing, employment and necessary supporting infrastructure required to ensure the best outcomes for current and future communities of North Essex.

- 5.2 As part of this agreed approach, the Cabinets of each of the Authorities agreed in December 2016 to establish a dedicated delivery structure and special purpose vehicle for the Garden Communities. This included:
- The setting up of NEGC Ltd, being a corporate entity wholly owned by all the four Authorities; and
  - To approve the NEGC Ltd Shareholder Agreement, with each Authority holding an equal shareholding.
- 5.3 In order to enable NEGC Ltd to move forward it is required to adopt a further Interim Business Plan and approve its budget for the 2019/20 financial year. Under the terms of the Shareholders Agreement, NEGC Ltd is permitted to operate under an interim business plan as the board shall determine until such time as a long-term business plan is adopted.
- 5.4 The NEGC Ltd board has recently approved an Annual Review for 2018/19 which provides details of the outcomes in relation to the NEGC programme.

#### **2019/20 Interim Business Plan**

- 5.5 NEGC Ltd is required to have in place a Long-Term Business Plan, which is defined within the Shareholder Agreement as including a high level 5-year business plan in relation to NEGC Ltd and that such a business plan shall cover infrastructure requirements, finance, planning and such other matters as NEGC Ltd determines, and take into account the aims and requirements of the Master Plan for the garden communities.
- 5.6 The Shareholder Agreement requires the Long-Term Business Plan to be submitted to the Shareholders within three months of the full NEGC Ltd Board being appointed. The full Board was established in January 2017. However, the production of the Long-Term Business Plan has not been possible to date, due to ongoing discussions around the future delivery model.
- 5.7 However, the Board are able, in accordance with the Shareholder Agreement, to operate under an Interim Business Plan until such time as a Long-Term Business Plan is developed. Accordingly, the NEGC Ltd Board determined at its meeting on the 17 January 2019 that the Company may operate under an Interim Business Plan for 2019/20
- 5.8 The Shareholder Agreement does not require the Authorities to provide approval of the Interim Business Plan prior to its adoption by the Board. The proposed 2019/20 Interim Business Plan (Appendix A) for NEGC Ltd has been produced for the 2019/20 financial year largely to enable NEGC Ltd to provide support to the Local Planning Authorities in progressing Section 1 of their Local Plans and to develop proposals for the delivery strategy including a potential locally-led development corporation.
- 5.9 The 2019/20 Interim Business Plan provides an overview of the vision, objectives, necessary workstreams, governance, funding and actions required

to deliver NEGC Ltd's scope of work and bringing forward a number of priorities during 2019/20 to move the Garden Communities towards the delivery phase. The key operational priorities include:

- Assisting the North Essex Authorities in their planning capacity by carrying out further work in relation to the Local Plan evidence base including: additional infrastructure, delivery and phasing work; employment floorspace forecasting; demonstrating the viability of the Garden Communities; input into the overall Transport work, including proposals for a Rapid Transit System, and supporting the Council's and presenting evidence on deliverability at the re-opened Examination in Public for Part 1 of the Local plan;
- Continuing with high-level engagement with the existing and proposed new communities on a number of key topics to give them a strong sense of participation in and ownership of the emerging new Garden Communities;
- Continuing to ensure that the North Essex Economic Strategy maximises benefits to Garden Communities and the area as a whole;
- Evolving the best approach for delivery strategy including locally-led Development Corporation(s) in North Essex with Government, including the preparation of a locally – led development corporation operating structure and funding requirements for testing with funders;
- Working with the Councils to prepare a Mandate in support of a designation for a locally-led development corporation that is financed and supported by all NEGC Ltd's directors and shareholders;
- Continuing to explore approaches to secure an interest in land either via negotiation or compulsory purchase;
- Working with the Councils and key partners on Stewardship to identify a range of income earning and community assets together with potential management vehicles across the Garden Communities;
- Developing Masterplans for each of the Garden Communities;
- Designing local (e.g. transport) and social (e.g. education, health, community facilities etc.) infrastructure required to support each of the garden communities;
- Engaging with Infrastructure and Utility providers to confirm anticipated infrastructure demand and how it may be provided (considering the benefit of public/private ownership options), over the proposed NEGC development period;
- Exploring options available and delivering a commercial strategy to implement the supporting Infrastructure and utilities required to deliver the Garden Communities;

- Working closely with partner organisations to progress four priority areas identified for innovation (infrastructure, economy & business, living space, health & wellbeing) and develop a formal work plan to progress them;
  - Prepare a costed Business Plan for 2020/21 and 2021/22 for approval by the NEGC Board in January 2020.
- 5.10 The primary tasks during the year are to assist the North Essex Authorities with the work required for the Local Plan Section 1 Examination in Public; undertake public engagement to increase awareness and understanding of a range of key topic areas relevant to the garden community principles; evolve the approach to economic development, masterplanning, innovation, programme funding, governance and delivery options, including consideration of the transition towards a locally-led development corporation as one of a number of delivery vehicle options for the NEGC project.
- 5.11 NEGC Ltd will present delivery strategy options to the North Essex Authorities during 2019/20 to consider and decide upon the future operating model(s) for the delivery of the garden communities.
- 5.12 The 2019/20 Interim Business Plan followed by the subsequent 2020/21 & 2021/22 Interim Business Plan will act as a precursor to the preparation of a 'Long-Term Business Plan', which NEGC Ltd will be in a position to begin preparing following the outcome of the Local Plan Section 1 Examination in Public.
- 5.13 The 2019/20 Interim Business plan sets out the Vision, Strategic Objectives and key operational priorities for NEGC Ltd during 2019/20.
- 5.14 Key activities for each of the workstreams and activities that will be undertaken by NEGC Ltd during 2019/20 are included within the document, together with details of its Programme Management. In common with all business plans this document will be kept under review.

## **6. 2019/20 Budget**

- 6.1 The Shareholder Agreement provides that the draft Budget must be approved by the Authorities prior to its adoption by NEGC Ltd. It further provides that the Board shall submit any draft Budget to the Authorities no later than two months before the start of each financial period of NEGC Ltd.
- 6.2 The following table sets out a summary of the expenditure budget for 2019/20 by workstream which was agreed on a working basis by the North Essex Authorities at the end of March 2019. The budget includes provision for the additional work required to progress the locally-led development corporation proposition in conjunction with Government.

£000's	Q1	Q2	Q3	Q4	Total
<b>Local Plan / DPD</b>					
Staff	104	120	127	121	<b>471</b>
Overheads	27	34	37	30	<b>128</b>
Supporting studies	46	65	80	11	<b>201</b>
Planning	80	85	72	70	<b>306</b>
Engagement	6	18	13	6	<b>43</b>
Risk/Contingency	14	14	14	30	<b>71</b>
<b>Total</b>					<b>1,219</b>
<b>Delivery Strategy</b>					
Staff	69	70	72	73	<b>283</b>
Overheads	21	22	21	21	<b>85</b>
Governance	9	4	8	54	<b>75</b>
Delivery & Stewardship	15	29	38	39	<b>121</b>
Masterplan/Transport	1	1	11	20	<b>33</b>
Infrastructure & Utilities	5	15	25	30	<b>75</b>
Strategic Business Planning	31	61	81	44	<b>217</b>
Risk/Contingency	6	5	5	6	<b>23</b>
<b>Total</b>					<b>912</b>
<b>Overall Total</b>					<b>2,131</b>

6.3 There are a number of key assumptions to note in the budget forecast:

#### *Expenditure*

- The project resource and delivery team includes the managing director of NEGC Ltd and staff resources seconded to the project. This budget also includes an allowance for support services provided to NEGC Ltd such as HR, finance, ICT and accommodation.
- Provision for specialist advice and support across legal, finance and land and property matters is also included.

#### *Income*

- The budget includes a contribution of £350,000 from each of the North Essex Authorities and an additional £600,000 from Government in 2019/20. A final determination is still awaited on the exact amount of Government support and in the event that this support is less than is assumed, the Councils will be provided with a further report on the implications and any proposed mitigation. The balance of funding in 2019/20 will be from income received in 2018/19 and carried forward into 2019/20.

## **Local Authority Contributions**

- 6.4 The 2019/20 Interim Business Plan and associated budget includes the assumption that the North Essex Authorities will commit additional funding of £350,000 each in 2019/20. The request from NEGC Ltd is that this funding is set aside by each authority for future drawdown from NEGC Ltd as it is required.

## **Transfer of the Project Budget**

- 6.5 In February 2016 the shareholder councils agreed to commit £250,000 to support the joint work on the garden communities project. In September 2017 an additional £250,000 from each Authority was approved, followed by a further £100,000 in November / December 2018 to fund further work undertaken by NEGC Ltd in the development of the project. In addition to the contributions from the Councils, grants from the Government of £3.213m has been received to date to support the project.
- 6.6 To date project funding and spending has mostly taken place through Colchester Borough Council's accounts.
- 6.7 The 2019/20 Interim Business Plan assumes that in future part of the 2019/20 budget will pass to NEGC Ltd, with some costs retained in the Council's accounts. The allocation of costs will be based on assumptions of which costs should be appropriately met by NEGC Ltd. It is proposed that this allocation will be determined by the North Essex Authorities Section 151 officers.

## **7. Stewardship**

- 7.1 Long-term stewardship and management of the Garden Communities is a crucial part of the successful legacy of new communities. Recognising that such arrangements need to be in place from the outset to support the delivery model chosen by the Councils, the North Essex Authorities have previously committed to undertake long-term stewardship for the Garden Communities, as detailed in the "Active Local Stewardship" principle in the NEGC Charter that was approved in 2016:

*"The Garden Communities will be developed and managed in perpetuity with the direct involvement of their residents and businesses; residents will be directly engaged in the long-term management and stewardship, fostering a shared sense of ownership and identity".*

- 7.2 Likewise, within the final draft of the district councils' Local Plans, Policies SP8, SP9 and SP10 set out the detailed requirements for each of the proposed Garden Communities and include the following wording:

*"Establishment at an early stage in the development of the garden community, of appropriate and sustainable long-term governance and stewardship arrangements for community assets including green space, public realm areas*



*and community and other relevant facilities; such arrangements to be funded by the development and include community representation to ensure residents have a stake in the long-term development, stewardship and management of their community”.*

- 7.3 Such large-scale new communities have significant income generating and community asset (such as green space, community buildings and public realm) opportunities and options to participate in such arrangements will be presented to the Councils for initial consideration in the coming months. For example, the Letchworth Garden Village Heritage Foundation has existed for over 100 years and provides ongoing maintenance of public open space and management of the town centres and industrial buildings, as well as supporting, funding and promoting activities for the benefit of the Garden City and its communities. As at 31 December 2018, Letchworth had an asset portfolio value of £163m with an annual income of £12.2m, a property income of £9.5m and a charitable spend of £7.6m.
- 7.4 Early next year (Q4 19/20) the Councils are scheduled to formally make a decision on the preferred delivery model for the Garden Communities, which will also provide an opportunity for Members to review and comment on the supporting investigative work that will inform the consideration of the stewardship options available to the Councils and enable a clear and collective course of action to be agreed.

## **8. Financial implications**

- 8.1 The proposed budget includes expenditure of £2.131m, funded by contributions of £350,000 from each of Colchester Borough, Braintree and Tendring District and Essex County Councils, a further £600,000 from Government and £131,000 from income received in 2018/19 and carried forward into 2019/20.
- 8.2 The contribution requested from Essex County Council of £350,000 is included within the 2019/20 budget.
- 8.3 The development of the North Essex Garden Communities is dependent upon the Local Plans being approved by the Planning Inspector and then adopted by the North Essex Authorities. The Planning Inspector's findings are expected to be received in early 2020.
- 8.4 Assuming the Local Plans are approved and then adopted, additional funding in the range of £16m to £20m will be required over the next two years (2020/21 and 2021/22) in order to progress detailed planning and set-up the preferred delivery vehicle. Whilst securitised external finance will be sought, it must be recognised that funding options may be limited until infrastructure is developed and provides an asset to underwrite the financial risk. In a worse-case scenario, if no external funding was secured in the two year period to 2021/22, the North Essex Authorities would need to fund the full estimated cost of £16m to £20m.

- 8.5 In order to maximise external funding opportunities whilst keeping the financial risk to the North Essex Authorities at acceptable levels it is proposed that potential funding partners are engaged with over the next few months. Depending on the type and nature of external finance obtained, there will be a need for on-going financial undertakings or support from the North Essex Authorities.

## **9. Legal implications**

- 9.1 The General Power of Competence provided for by the Localism Act 2011 was relied upon as the authority for the District/Borough/County Council to establish and subscribe to North Essex Garden Communities Limited. Consequently, a Shareholders Agreement was entered into and the relevant provisions and requirements of the agreement are referred to within the context of this report.
- 9.2 In exercising the General Power of Competence Local Authorities must do so in a way which does not contravene any pre-existing statutory limitations. The actions identified in this report do not contravene any such restrictions.
- 9.3 The New Towns Act 1981 (Local Authority Oversight) Regulations 2018 came into force in July 2018, making provision for the local oversight of new town development corporations. Guidance has been issued that outlines the way in which Locally Led New Town Development Corporations (LLNTDC) will work.
- 9.4 The 2018 Regulations apply where the Secretary of State, pursuant to section 1A(2) of the New Towns Act 1981 ("the Act") makes an order under section 1 of the Act appointing one or more local authorities to oversee the development of an area as a new town ("locally led new town"). Those local authorities are collectively known as the ("oversight authority")
- 9.5 Further decisions will be required from both Cabinet and Council following consideration of an options appraisal before any request can be made to the Secretary of State for the North Essex Authorities to be appointed as oversight authorities and for one or more LLNTDCs to be designated.

## **10. Risk Management Implications**

### **Local Plan - Section 1**

- 10.1 Although the County Council is not generally the planning authority for the purpose of the provision of new towns, it is a key partner to the scheme and the local plan risks are clearly relevant to ECC. Before a Local Plan can be formally adopted, it must be examined by a government-appointed Inspector whose job it is to check that; 1) the plan has been prepared in line with various legal requirements and 2) that the policies and proposals in the plan comply with the 'tests of soundness' contained within the National Planning Policy Framework (NPPF). Examination hearings for the Section 1 Plan took

place between January and May 2018; and in June 2018 the Inspector wrote to the North Essex planning authorities setting out his initial findings. Whilst he confirmed the legal compliance and soundness of some elements of the plan and praised the North Essex Authorities' innovation and ambition, the Inspector found some of the evidence and justification in support of Garden Communities to be lacking and was therefore unable to pass the Section 1 Plan as sound.

- 10.2 In his letter, the Inspector offered the North Essex Authorities advice and options for how best to proceed. Having considered his advice, the North Essex Authorities in October 2018 confirmed that they remained committed to using Garden Communities principles to secure the future housing requirements in North Essex and would produce additional evidence to address each of the Inspector's concerns. On the 10<sup>th</sup> December 2018, the Inspector confirmed that he was satisfied that the proposals for further work on the evidence base satisfactorily responded to the points he had raised as identified issues and paused the examination until the North Essex Authorities further work on the evidence base and an Additional Sustainability Appraisal was completed. Monthly updates have been submitted to the Inspector on the programme timetable as requested.
- 10.3 The additional evidence requested by the Inspector has been collected and the three local planning authorities have concluded that it supports the current proposals within the Section 1 Local Plan as sound and, when presented to the Planning Inspector, will address his previous concerns.
- 10.4 As well as producing the above evidence in response to the Planning Inspector's concerns about Garden Communities, the North Essex Authorities have also compiled a table of proposed amendments to the Section 1 Plan.
- 10.5 The additional new evidence base documents and the table of proposed amendments were published for six weeks public consultation between 19<sup>th</sup> August and 30<sup>th</sup> September 2019 before they are submitted, along with any representations received, to the Planning Inspector to enable him to resume the examination. It is expected that the further examination hearings will take place in early December 2019.

#### **Delivery Mechanisms Options Appraisal:**

- 10.6 A full options appraisal of the Garden Communities delivery options is underway and we will continue to advise your separately on these issues as the work progresses to enable members to take future decisions on the most appropriate delivery arrangements between the four shareholder Councils. The options appraisal will consider the key priorities for the shareholder Councils the delivery routes available, risks and the potential scale of any financial commitments and liabilities.

## **11. Equality and Diversity Implications**

11.1 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.

11.2 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).

11.3 The proposals are for the approval of a range of key documents which will enable NEGC Ltd and its Shareholders to create an inclusive community which meets the needs of all residents regardless of whether or not they have a protected characteristic. The differing needs of people, including those with different protected characteristics, will need to be considered during the design and planning stage of the development and kept under review as the project progresses.

## **12. LIST OF APPENDICES**

**Appendix A** - NEGC Interim Business Plan and Budget 2019/20

## **13. LIST OF BACKGROUND PAPERS**

Cabinet Report – Participation in the North Essex Garden Communities Project – Governance and decision on the decision of funding – 13 December 2016

Cabinet Report – Update on the North Essex Garden Communities Project – 19 September 2017

Board papers insofar as published – See North Essex Garden Communities/untitled

<b>I approve the above recommendations set out above for the reasons set out in the report.</b>	<b>Date</b>
<b>Councillor David Finch, Leader of the Council</b>	30.10.19

**In consultation with:**

<b>Role</b>	<b>Date</b>
<b>Executive Director for Place and Public Health</b> <b>Mark Carroll</b>	2 October 2019
<b>Executive Director for Finance and Technology (S151 Officer)</b> <b>Stephanie Mitchener (Delegated Authority)</b>	21 October 2019
<b>Director, Legal and Assurance (Monitoring Officer)</b> <b>Paul Turner</b>	2 October 2019