

Establishment of a Joint Committee for the Tendring Colchester Borders Garden Community

- 1.1 This report asks Council to agree that ECC should participate in a joint committee by appointing two of the nine members and by authorising the joint committee to determine certain planning applications where ECC is planning authority.
- 1.2 The proposed Tendring Colchester Borders Garden Community (TCBGC) is located to the east of Colchester town and spans the district boundaries of Colchester and Tendring districts. The Garden Community is allocated for the development of 7,500-9,000 homes, supporting employment spaces, a new country park, community facilities, and sustainable transport infrastructure.
- 1.3 This is a large site which straddles the border of Tendring and Colchester districts. There is a strong case for establishing a Joint Committee to discharge planning functions. This has been adopted elsewhere and would provide a more formal footing for the existing partnership working on TCBGC.
- 1.4 It is possible to delegate functions to a Joint Committee. The proposal is that its terms of reference would be limited to planning functions related to the preparation of a Development Plan Document (DPD) for TCBGC (ie plan-making); and the determination of planning applications related to and within the defined boundary of TCBGC (ie development management). Tendring and Colchester would appoint three members each and the County Council would be able to appoint two. All members would have equal voting rights.
- 1.5 ECC would be required to appoint two members to the Committee. The political balance rules do not apply, meaning that both members would be from the majority party, one of whom should be a Cabinet Member or Deputy Cabinet Member. Local county councillors will be able to be invited to attend the meeting and will be able to take part in the meeting but without voting rights.
- 1.6 It is proposed that ECC would authorise the joint committee to determine planning applications that would otherwise have been taken by its Development and Regulation Committee. This would include planning applications:
 - Where ECC is developer such as:
 - New schools (primary, secondary, special education needs, early years, and post 16).
 - Libraries.

- Any waste development proposals.
- Minerals planning applications.

1.7 The full list of types of application that the Joint Committee would consider would include:

- Housing – all tenures (market, affordable, and specialist housing for elderly persons, etc).
- New schools (primary, secondary, special education needs, early years, and post 16).
- Community centres, community hubs and libraries.
- Leisure uses, sports provision, and allotments.
- Country parks, recreation and public open spaces.
- Any waste development proposals.
- Sustainable Urban Drainage.
- Town/neighbourhood centre(s) and associated shops (all shapes and sizes).
- Public realm, footpaths and dedicated cycle routes/network.
- All new roads and road crossings within the GC.
- Any segregated/dedicated bus routes.
- Commercial and employment sites (including energy from waste proposals).
- Minerals planning applications.

1.8 In addition, the Joint Committee would also have a role in considering:

- The heads of terms for s.106 obligations relating to the mitigation measures, necessary infrastructure and affordable housing required to deliver a policy-compliant development.
- The development viability, where relevant, in relation to s.106 obligations.
- The stewardship model aligned to the s.106 and associated planning policy and planning permissions.

- Ongoing monitoring of the compliance of development with agreed permissions, related obligations/conditions and its implementation to an agreed standard.

1.9 Authorising the Joint Committee to take these decisions does not remove the power of ECC or the Development and Regulation Committee to make decisions on those applications, but the expectation would be that applications going to committee would normally be determined by this committee.

1.10 Committee members would be expected to comply with training requirements set by all three councils. The joint committee will not itself have employees.

2 Recommendations

2.1 Agree that the Council participates a Joint Committee with Tendring District Council and Colchester Borough Council in relation to the Tendring Colchester Borders Garden Community on the terms appended to this report.

2.2 Agree that the seats on the committee are allocated to the Conservative Group.

2.3 Agree that the documents appended to this report are added to appendix 4 to the constitution and that a new paragraph be added at the end of section 13.2 of the Constitution as follows:

‘The Colchester Tendring Borders Joint Committee, whose constitution and terms of reference is at appendix 4 will exercise council functions in accordance with the terms of the delegations granted to it by full Council from time to time.’

**PROPOSED TERMS OF REFERENCE FOR TENDRING COLCHESTER
BORDERS GARDEN COMMUNITY JOINT COMMITTEE**

1. Parties:

- (1) Tendring District Council (“TDC”)
- (2) Colchester Borough Council (“CBC”)
- (3) Essex County Council (“ECC”)

2. Status:

This Committee is a joint committee for Tendring Colchester Borders Garden Community (TCBGC) formed by resolutions of the Cabinets and Full Councils of TDC, CBC and ECC pursuant to sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972. The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, Regs 11 (7) and 12 (4) *(These regulations determine arrangements involving joint committees and membership).*

TDC and CBC have agreed pursuant to Section 28 of the Planning and Compulsory Purchase Act 2004 to prepare a joint local development document, for the purposes of these Terms of Reference to be known as a joint TCBGC DPD, although the name of the Garden Community may change throughout the process.

3. Membership:

- 2 Members appointed by TDC (one of which must be the Chairman of the Planning Policy and Local Plan Committee) plus 1 Cabinet member appointed by the Leader
- 2 Members appointed by CBC (one of which must be the Chairman of the Local Plan Committee) plus 1 Cabinet member appointed by the Leader
- 2 Members appointed by ECC, one of whom should be a Cabinet Member or Deputy Cabinet Member.

3.1 All members of the Committee shall have undertaken suitable training which shall have been approved by the parties.

4. Terms of reference:

4.1 The Committee’s remit is to jointly discharge the functions (‘the Functions’) set out in Appendix 1 in relation the Tendring Colchester Borders Garden Community, the exercise of which have been delegated to the Committee by TDC, CBC and ECC, subject to the limitation in paragraphs 4.3 and 4.4.

4.2 The functions delegated by TDC, CBC and ECC include:-

- (a) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:
 - a. is in accordance with the Local Development Schemes;
 - b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaptation, to climate change;
 - c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
 - d. has regard to the adopted Section 1 of CBC & TDC's Local Plan;
 - e. has regard to the resources likely to be available for implementing the proposals in the document;
 - f. other such matters the Secretary of State prescribes; and
 - g. complies with the Council's Statement of Community Involvement
- (b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;
- (d) make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;
- (f) recommend to CBC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and
- (g) the power of the TDC and CBC as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- (h) To exercise TDC, CBC and ECC's local planning authorities' powers and duties in relation to development control including for the avoidance of doubt the power to approve authorise and direct the respective Local Planning Authorities to enter into agreements regulating the development or use of

land pursuant to S106 of the Town and Country Planning Act 1990 and related powers.

- 4.3 Note that the following are the sole responsibility of TDC and CBC's full Council's:
- a) Responsibility for giving of instructions to the Cabinet and Joint Committee to reconsider the draft plan submitted by the Joint Committee for the Council's consideration.
 - b) The amendment of the draft joint development plan document submitted by the Joint Committee for the full Council's consideration.
 - c) The approval of the joint development plan document for the purposes of consultation submission to the Secretary of State for independent examination.
 - d) The adoption of the joint development plan document.
- 4.4 Committee shall discharge the functions relating to town and country planning and development control as specified in *Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)*, falling wholly or substantially within the Tendring Colchester Borders Garden Community area shown coloured purple on the plan contained at Appendix 2.
- 4.5 The Committee may exercise the subsidiary powers authorised pursuant to section 111, Local Government Act 1972 in connection with the discharge of the functions.
- 4.6 The Committee may exercise the powers of delegation contained in section 101(2), Local Government Act 1972 and agree a Scheme of delegation to officers.
- 4.7 TDC, CBC or ECC may request an application to be considered by the Committee in accordance with an agreed scheme.
- 4.8 All members of the Committee shall be entitled to vote on any matter to be determined by the Committee.

5. Standing Orders

- 5.1 The Committee shall be governed by the Standing Orders set out in Appendix 3.
- 5.2 The Committee shall have the power to amend the Standing Orders from time to time within the scope of these Terms of Reference following consultation with the Councils' Monitoring Officers.

6. Administration

- 6.1 The Council which is the local planning authority shall receive applications relating to the functions in the usual way and shall be responsible for all administrative stages leading to and flowing from the exercise of the functions.
- 6.2 The administration of the Committee will be undertaken by TDC who shall be responsible for all matters connected with the administration of the Committee, including the preparation and dispatch of agendas and securing premises at which the Committee may meet.

**Functions delegated by Tendring District Council,
Colchester Borough Council and Essex County Council to the Joint
Committee in relation to Tendring Colchester Borders Garden Community.**

1. The functions delegated by TDC and CBC: -

- (a) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:
 - a. is in accordance with the Local Development Schemes;
 - b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaptation, to climate change;
 - c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
 - d. has regard to the adopted Section 1 of CBC & TDC's Local Plan;
 - e. has regard to the resources likely to be available for implementing the proposals in the document;
 - f. other such matters the Secretary of State prescribes; and
 - g. complies with the Council's Statement of Community Involvement
- (b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning)(England) Regulations 2012;
- (c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;
- (d) make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;
- (f) recommend to CBC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and
- (g) the power of the TDC and CBC as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. The functions delegated by TDC, CBC & ECC: -

(a) To exercise TDC, CBC and ECC's local planning authorities' powers and duties in relation to development control including for the avoidance of doubt the power to approve authorise and direct the respective Local Planning Authorities to enter into agreements regulating the development or use of land pursuant to S106 of the Town and Country Planning Act 1990 and related powers within the Tendring Colchester Borders Garden Community area showed coloured purple on the plan in Appendix 2.

3. In exercising the functions in paragraph 2(a) the kind of matters that would fall to the Joint Committee to consider, in the determination of planning applications would include:

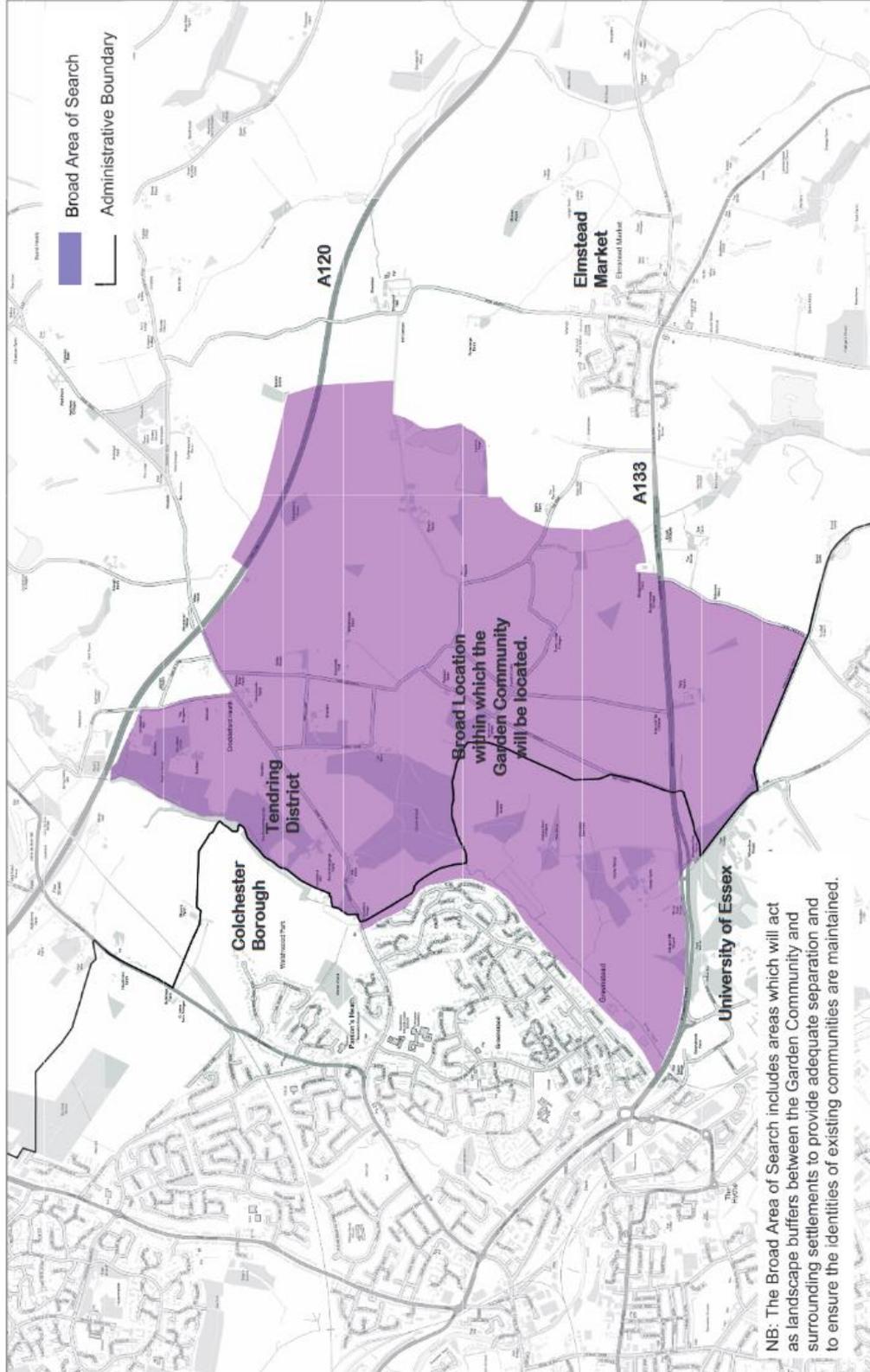
- Housing – all tenures (market, affordable, and specialist housing for elderly persons etc.)
- New schools (primary, secondary, special education needs early years and post 16)
- Community centre, community hub and library
- leisure uses, sports provision, and allotments
- Country parks, recreation and public open space
- Any waste development proposals.
- Sustainable Urban Drainage
- Town/neighbourhood centre(s) and associated shops (all shapes and sizes)
- Public realm, footpaths and dedicated cycle routes/network
- All new roads and road crossing within the Garden Community
- Any segregated/dedicated bus routes
- Commercial and employment sites, including energy for waste proposals.
- Minerals planning applications.

4. In addition the Joint Planning Committee would also have a role in considering:

- The heads of terms for S106 obligations relating to the mitigation measures, necessary infrastructure and affordable housing required to deliver a policy compliant development.
- Development viability, where relevant, in relation to S106 obligations.
- Stewardship model aligned to the S106 and associated permissions.
- Ongoing monitoring of the compliance of development with agreed permissions, related obligations/conditions and its implementation to an agreed standard.

Plan showing Tendring Colchester Borders Garden Community

Tendring Colchester Borders Garden Community - Broad Area of Search



<p style="text-align: center;">Standing Orders for Tendring Colchester Borders Garden Community Joint Committee</p>
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1. Appointment of Chair and Deputy Chair

- 1.1 The Committee shall, at its first meeting in each municipal year, and from time to time as it considers necessary, elect a Chair and Deputy Chair. The Chair and Deputy Chair shall rotate between the Council's.
- 1.2 In the absence from any meeting of the Chair and Deputy Chair, a Chair for that meeting shall be appointed by the meeting but shall relinquish the chair if the Chair or Deputy Chair subsequently arrives at the meeting.

2. Appointment of Spokespersons

- 2.1 Each of the Councils shall nominate one of the committee members which it appoints as its spokesperson.

3. Notice of and Summons to Meetings

- 3.1 The administration of the Committee shall be undertaken by Tendring District Council who will give notice to the public of the time and place of any meeting in accordance with the access to information rules applicable to local authorities. At least five clear days before a meeting, the Committee Service will send an agenda by post and/or electronically to every member of the Committee. The agenda will give the date, time and location of each meeting and specify the business to be transacted and will be accompanied by such details as are available.
- 3.2 The Committee Service will take reasonable steps to ensure that a copy of the agenda and accompanying papers are placed on deposit at the offices of each of the councils for public inspection at least five clear days before the meeting and are published on the Council's web sites. The Committee Service will ensure that arrangements are put in place for the inspection of background papers in accordance with section 100D, Local Government Act, 1972 and to ensure compliance with all other provisions of Part VA, of that Act.
- 3.3 Dates, times and venues for meetings shall be determined by the Committee. In the absence of agreement or in cases of urgency, meetings may be called by the Committee Service following consultation with the Chair and Deputy Chair.
- 3.4 If at any time Tendring District Council was unable to fulfil its role in providing the administration to the Committee, Colchester Borough Council or Essex County Council will perform the functions.

4. Membership

- 4.1 Committee members shall be appointed by the Councils from time to time in accordance with the Committee's terms of reference. A Council may at any time replace one or more of its nominated members by notice given to the Committee Service.

5. Substitute Members

- 5.1 Each Council will appoint one substitute member. Each Council will notify the Committee Service of substitute members appointed.
- 5.2 Substitute members will have all the powers and duties of an ordinary member of the Committee. For the purposes of briefing meetings and circulation of papers, substitute members shall be treated in the same manner as ordinary members.
- 5.3 Substitute members may attend meetings in the capacity of an ordinary member of the Committee. The substitute member should withdraw from participation as a member of the Committee in the business at that meeting during any period at which the ordinary member is in attendance.

6. Quorum

- 6.1 The quorum of a meeting of the Committee shall be as follows: -

2 Members from Tendring District Council
2 Members from Colchester Borough Council
2 Members from Essex County Council

7. Public speaking rights

- 7.1 Members of the public have the public speaking rights set out in Annex A.
- 7.2 The Committee shall have the power to amend the public speaking rights.

8. Voting

- 8.1 All members of the Committee shall be entitled to vote upon any decision due to be made by the Committee.
- 8.2 Every question shall be decided by a show of hands, subject to Rule 8.3.
- 8.3 If any member demands a named vote and is supported by two other members, the question shall be determined by a named vote and the Committee Service shall record and enter in the minutes the names of each member present and whether they voted for or against or abstained.

- 8.4 Any member may, immediately after any vote is taken, require a record to be made in the minutes of whether they voted for or against or abstained.
- 8.5 If there are equal numbers of votes for and against, the Chair will have a second and casting vote.

9.0 Tenure of office

- 9.1 A member shall cease to be a member of the Committee if the person—
(a) resigns in accordance with paragraph 9.3;
(b) is removed or replaced by the Council which made the appointment; or
(c) ceases to be a member of a constituent Council (and does not on the same day again become a member of that or any other Council).
- 9.2 A person who ceases to be a member of the Committee shall be eligible for reappointment.
- 9.3 A member may resign from the Committee by sending written notice delivered to the proper officer of the Council which appointed the member;
- 9.4 Any casual vacancy shall be filled as soon as practicable by the body which appointed the member of the Committee whose membership has ceased.

10. Minutes

- 10.1 The Chair will sign the minutes of the Committee at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record.

11. Exclusion of Public

- 11.1 Members of the public and press may only be excluded either in accordance with the Access to Information provisions of the Local Government Act 1972 (consideration of 'exempt information') or Rule 13 (Disturbance by Public).

12. Disorderly Conduct: Misconduct of a Member

- 12.1 If at any meeting of the Committee any member, in the opinion of the Chair, misconducts themselves by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Committee, the Chair or any other member may move "That the member named be not further heard", and the motion if seconded shall be put and determined without discussion.
- 12.2 If the member named continues their misconduct after a motion under the foregoing Rule has been carried, the Chair shall either move "that the member

named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting of the Committee for such period as in their discretion shall consider expedient.

- 12.3 In the event of a general disturbance which in the opinion of the Chair renders the due and orderly despatch of business impossible, the Chair, in addition to any other power vested in him/her, may adjourn the meeting of the Committee for such period as in their discretion shall consider expedient.

13. Disorderly Conduct: Disturbance by members of the public

- 13.1 If a member of the public interrupts the proceedings at any meeting the Chair shall warn them. If a member of the public continues the interruption the Chair shall order their removal from the meeting.
- 13.2 In case of a general disturbance in any part of the room open to the public the Chair shall order that part to be cleared.

14. Suspension of Standing Orders

- 14.1 Any of these Standing Orders may, so far as is lawful, be suspended by motion passed unanimously by those entitled to vote on the application in question. Any motion to suspend any part of these rules shall specify the purpose of their suspension. Any suspension shall only be to the extent and for the length of time necessary to achieve the stated purpose.

15. Attendance at the Committee by other members of the Councils

- 15.1. A member of any of the Councils who is not a member of the Committee may speak at a meeting of the Committee at the request or with the permission of the Committee or of its Chair made or obtained before the meeting. Such request or permission shall specify the matters in respect of which the member shall be permitted to speak.

16. Attendance at the Committee by Council Officers

- 16.1 The relevant Officers from the Councils will attend the Committee meetings to present the reports and advise the Committee in relation to its decision making.

17. Statements of Community Involvement

- 17.1 Public consultation in relation to pre application matters shall be dealt with in accordance with the Statement of Community Involvement or other appropriate procedures of the Council responsible for issuing the consent.

<p style="text-align: center;">Tendring Colchester Borders Garden Community Joint Committee</p>
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PART A

Public Speaking Arrangements- General

1. Members of the public, who want to speak about an item which is to be considered at a meeting of the Committee can do so if they have notified the Committee Service by 12.00 noon on the day before the meeting.

At the Committee Meeting

2. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.
3. Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.
4. The Chair will ask the speaker to come to the table at the beginning of the discussion of the report of the relevant item. The Chair will then invite them to speak following the Officer's introduction to the report on the item.
5. The speaker should address the Chair of the Committee, which is the normal convention for Committees.
6. Speakers should remember to:
 - Keep to 3 minutes or whatever other period has been agreed.
 - Highlight the main points they wish to raise and be as brief and concise as possible.
 - Be courteous.

At the conclusion of the public speaking, the Committee will discuss and determine the item.

Tendring Colchester Borders Garden Community Joint Committee

PART B**Public Speaking Arrangements- Planning Applications**

1. Members of the public, or applicants or their agents, who want to speak about an application which is to be considered at a meeting of the Committee can do so if they have:
 - (a) in the case of members of the public, already submitted a written representation on an application; and
 - (b) notified the Committee Service by 12.00 noon on the day before the meeting.
2. A member of the public who has made a written representation on a planning application which is to be determined by the Committee, will be notified in writing about the committee date and their public speaking rights in the week before the Committee meeting.

At the Committee Meeting

3. A list of public speakers is available at the meeting. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.
4. Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.
5. If more than one person wants to make a representation about the same application, then they should choose someone to act as a spokesperson. When several people wish to speak on the same application but wish to raise different issues, the Chair may agree to those speakers making representations. In these circumstances, less time may need to be given to each speaker.
6. The Chair will ask the speaker to come to the table at the beginning of the discussion of the report on the relevant application. The Chair will then invite them to speak following the Officer's introduction to the report on the application.
7. The speaker should address the Chair of the Committee, which is the normal convention for Committees.
8. Speakers should remember to:
 - Keep to 3 minutes or whatever other period has been agreed.

- Keep to the planning issues raised by the application.
- Highlight the main points they wish to raise and be as brief and concise as possible.
- Be courteous.

At the conclusion of the public speaking, the Committee will discuss and determine the planning application.