

NEAs SECTION 1 LOCAL PLAN

MATTER 5

RESPONSE TO HEARING STATEMENTS ON BEHALF OF GALLIARD HOMES

Galliard response to NEGC's answer to Question 1 (delivery by private sector rather than public sector)

This note responds to the Hearing Statements submitted as part of the Inspector's Issues and Questions (Document IED019) for Matter 5 (Delivery Mechanisms and State Aid) of the resumed Examination hearing sessions regarding the Section 1 Braintree Local Plan.

From a review of the hearing statements Galliard Homes wishes to respond on one matter of clarification which concerns Question 1 (delivery by private sector rather than public sector) as answered by North Essex Garden Communities Ltd (NEGC) (the same statement below also appears in NEGC's response to question 7 (response to critique of EB/085 in Mr O'Connell's paper).

Question 1: A number of participants argue that delivery of the proposed Garden Communities could be more effective if it were led by private-sector developers than by a public-sector body. Please response to these arguments.

NEGC makes it clear that it believes that *"public sector leadership, with associated statutory power, is the preferred way in which the NEAs can proactively ensure comprehensive delivery of the garden communities"*.

Galliard is fully aware that NEGC has been exploring a number of delivery models and that it has devoted particular resource to exploring the concept of a Locally Led New Town Development Corporation (LLNTDC). Some discussions have taken place between Galliard and NEGC in relation to such arrangements, but they have been at a very high and generalised level with very little meaningful information being provided to allow a proper assessment of the proposals.

Consequently, and as will be understood from Galliard's representations, many questions remain unanswered meaning that so far as Galliard is concerned, we cannot agree with NEGC's statement that:

"NEGC Ltd has already discussed public/partnership options including the use of an LLNTDC with landowners and developers for each of the three Garden Communities and is in a position to convert those discussions into commercial agreements should the Local Plan be found sound."

The second part of this statement is simply not the case, although Galliard remains engaged and committed to exploring such possibilities.

**Galliard Homes
December 2019**

NEAs SECTION 1 LOCAL PLAN

MATTER 5 – INSPECTOR'S QUESTIONS 5 AND 6

RESPONSES ON BEHALF OF GALLIARD HOMES

Question 5(a)

If the Section 1 Plan is neutral as regards who will be responsible for leading delivery of the proposed garden communities, how will the NEAs be able to ensure through their development management powers that any garden community proposal that comes forward meets all their policy aspirations for the garden communities?

As recognised by the Inspector in his 8 June 2018 letter¹, if the Section 1 Plan is neutral as regards who will be responsible for leading delivery of the proposed garden communities, the NEAs will still be able to rely on the same development management powers as any other planning authority. As with any other local plan policy, Policy SP7 should set out the policy requirements which are required to achieve the NEAs' aspirations for the garden communities. These will provide the criteria against which any planning application for garden community development can be assessed. It is for the applicant to demonstrate, to the satisfaction of the planning authority, that their proposed delivery model will meet the policy criteria.

In addition, the proposed Development Plan Document (DPD) for each garden community will set out further detail of the policy requirements. It is understood that these will be worked up with the developers of each garden community, through the usual developer/planning authority relationship, to arrive at an agreed framework for the comprehensive development of each garden community. The result is a plan-led framework which allows landowners and developers to respond to the NEAs' aspirations, releasing phases for development in line with market demand and ensuring, again to the satisfaction of the planning authority, that the necessary infrastructure is provided in the right place at the right time.

Question 5 (b)

In this regard, do any further amendments need to be made to Policy SP7 paragraph 3 (beginning "The Councils needs to be confident....") and/or to Policy SP7 criterion (ii)?

We have previously made representations which express in principle support for the approach set out in policy SP7 subject to the level of investment being proportionate to the extent to which the private-sector is able to lead the delivery of the development². However, our previous representation expressed concern that the NEAs are assuming that their preferred delivery model of a Locally Led New Town Development Corporation (LLNTDC) is capable of achieving the best outcomes. From our experience and following more than three years of unanswered questions put

¹ IED011, paragraphs 90 and 02.

² Matter 6, Question 20 – Statement on behalf of Galliard Homes, page 3.

to the NEAs and NEGC about this model³, we continue to doubt this approach and the NEAs ability to deliver through such a structure.

We therefore have concerns that Policy SP7 is currently worded in a way which is clearly intended to facilitate the NEAs preferred model. In our view, the drafting should be expressed in more neutral language whilst still allowing many of the NEAs' aspirations to be achievable including the policy requirement for a framework to guarantee the funding and provision of infrastructure.

Our suggested amendments are attached at Appendix 1 of this statement.

Question 5 (c)

Should the Section 1 Plan instead specify that delivery of the proposed garden communities should be led by a public-sector local delivery vehicle, a Locally Led New Town Development Corporation, or a private-sector developer?

We have previously made representations that the focus of Policy SP7 should be on effective delivery, by the means that has the best prospect of achieving that objective and that there is no need to be prescriptive and insist on any particular model⁴. This remains our view.

However, the absence of clarity from the NEAs and NEGC in relation to their proposed delivery model has reinforced the need for the policy to be flexible. We have previously stated that at Land West of Braintree, the site of the garden community is already within the control of a small number of stakeholders and with a master developer already in place and ready to lead the early phases of the development. We therefore take the view that the policy needs to provide sufficient flexibility for the private-sector, with the appropriate experience of large scale housing delivery, to promote and lead an alternative approach, working alongside the public sector.

Question 6 (a)

Would the existence of a viable alternative master developer with control over land allocated for a garden community restrict the ability of the Secretary of State to confirm a CPO on that land (see paragraphs 8.10-8.11 of the consultation response to EB/084 from carter Jonas on behalf of L&Q, Cirrus Land and Gateway 120)

The existence of a viable alternative master developer with control over land allocated for a garden community would, rightly, restrict the ability of the Secretary of State to confirm a CPO on that land. We therefore agree with paragraphs 8.10-8.11 of the consultation response to EB/084 from Carter Jonas on behalf of L&Q, Cirrus Land and Gateway 120.

A CPO should only be made where there is a compelling case in the public interest. It is difficult to see how a CPO for the NEA/NEGC garden community could be promoted if there is an alternative and credible private-sector, developer-led consortium capable of delivering the garden community.

³ Letter dated 26 June 2019 to the NEAs and letter dated 18 October 2019 to NEGC setting out unanswered questions, attached at Appendix 2.

⁴ Matter 6, Question 2 – Statement on behalf of Galliard Homes, page 2.

MHCLG issued new guidance⁵ on the use of CPO and the Crichel Down Rules in July 2019. Paragraphs 143 and 144 are particularly important as they introduce the importance of alternative proposals which will need to be considered by the Secretary of State in deciding whether or not to confirm a CPO in relation to a LLNTDC.

At paragraph 143, the Secretary of State will need to consider:

- the statutory objects of the LLNTDC;
- whether the purposes for which the order lands are being acquired by the LLNTDC fit with the planning framework for the new town area;
- whether the LLNTDC has demonstrated satisfactorily that the order lands are needed to support the development of the town; and
- the appropriateness of alternative proposals (if any) put forward by the owners of the land or other persons.

At paragraph 144, where alternative proposals for the use or development of land contained in a CPO, the Secretary of State will need to consider;

- whether the alternative proposals are likely to be implemented, taking into account the planning position and their promoter's track record of delivering large scale housing development;
- how the alternative proposals may conflict with those of the LLNTDC;
- how the alternative proposals may, if implemented, affect:
 - the delivery of a new town on land designated for that purpose; and
 - the LLNTDC's ability to fulfil its statutory objects (including in relation to achieving sustainable development and good design and/or the purposes for which it was established).

Consequently, there is a prima facie case for the landowners and developers for the Land West of Braintree garden community to be able to demonstrate that there is a credible alternative delivery mechanism which would need to be given serious consideration by the Secretary of State in considering whether to make a CPO. There would need to be compelling reasons in the public interest for the Secretary of State to conclude that a development corporation could do a better job in delivering the garden community rather than a master developer with a strong track record of successful housebuilding and infrastructure delivery.

Question 6 (b)

If so, what are the implications for the delivery of the garden communities in accordance with the NEAs' policy aspirations?

The implications of an alternative private-sector master developer leading the delivery of the garden communities in accordance with the NEA's policy aspirations would be beneficial. They are likely to include the following:

⁵ The Compulsory Purchase Process and The Crichel Down Rules, MHCLG, July 2019

- the immediate ability to submit planning applications in line with the emerging DPD which would not threaten the comprehensive delivery of the new town;
- the NEAs would maintain planning control through the usual development management process;
- the avoidance of continuing bureaucracy and increased public funding for new and untested development corporation structures;
- the avoidance of the need for public land ownership and a lengthy CPO process; and
- earlier delivery of housing and infrastructure.

We therefore see good reasons to allow flexibility within the policy to ensure that there is the opportunity for the delivery of the garden communities to be led by private-sector master developers.

Galliard Homes

2 December 2019

Appendix 1

Policy SP7

Development & Delivery of New Garden Communities in North Essex⁶

The following three new garden communities are proposed in North Essex.

Tendring/Colchester Borders, a new garden community will deliver 2,500 homes **and 7 hectares of employment land** within the Plan period (as part of an overall total of between 7,000-9,000 homes **and 25 hectares of employment land** to be delivered beyond 2033)

Colchester/Braintree Borders, a new garden community will deliver ~~2,500~~ **1,350** homes **and 4 hectares of employment land** within the Plan period (as part of an overall total of between 15,000 – 24,000 homes **and 71 hectares of employment land** to be delivered beyond 2033)

West of Braintree in Braintree DC, a new garden community will deliver ~~2,500~~ **2,060** homes **and 9 hectares of employment land** within the Plan period (as part of an overall total of between 7,000-10,000 homes **and 44 hectares of employment land** to be delivered beyond 2033)

Each of these will be an holistically and comprehensively planned new community with a distinct identity that responds directly to its context and is of sufficient scale to incorporate a range of homes, employment, education & community facilities, green space and other uses to enable residents to meet the majority of their day-to-day needs, reducing the need for outward commuting. **Each new garden community will be comprehensively planned from the outset with delivery of each new community will be being phased as part of that whole** and underpinned by a comprehensive package of infrastructure.

The Councils will need to be confident, before any consent is granted, that the following requirements have been secured either ~~through in the form of appropriate public ownership,~~ planning agreements and obligations ~~and, including (if necessary)~~ a local infrastructure tariff; or through public-private collaboration or ownership.

The design, development and phased delivery of each new garden community will conform with the following principles

- i. Community and stakeholder empowerment in the design and delivery of each garden community from the outset and a long-term community engagement and activation strategy
- ii. The private and public sectors working pro-actively and collaboratively ~~with the private sector~~ to design, and bring forward these garden communities, ~~deploying new models of delivery where appropriate, sharing risk and reward~~ borne shared and ensuring that the cost of achieving the following is borne shared by landowners and those promoting the developments: (a) securing a high-quality of place-making, (b) ensuring the timely delivery of both on-site and off-site infrastructure required to address the impact of these new communities, and (c) providing and funding a mechanism for future stewardship, management, maintenance and renewal of community infrastructure and assets. Given the scale of and time period for development of these new garden communities, the appropriate

⁶ Inspector's changes in bold. Galliard further amendments in track changes.

model of delivery will **need to** secure a comprehensive approach to the delivery of each new community in order to achieve the outcomes outlined above, avoid a piecemeal approach to development, provide the funding and phasing of both development and infrastructure in a way that is proportionate to the ability of those leading the delivery of the development, and be sustainable and accountable in the long term.

iii. Promotion and execution of the highest quality of planning, design and management of the built and public realm so that the Garden Communities are characterised as distinctive places that capitalise on local assets and establish environments that promote health, happiness and well-being. This will involve developing a cascade of design guidance including concept frameworks, detailed masterplans and design codes and other guidance in place to inform and guide development proposals and planning applications. Planning applications and any local development orders or other consenting mechanisms for the garden communities will be expected to be consistent with approved design guidance

iv. Sequencing of development and infrastructure provision (both on-site and off-site) to ensure that the latter is provided ahead of or in tandem with the development it supports to address the impacts of the new garden communities, meet the needs of residents and establish sustainable travel patterns, and be proportionate to the ability of those leading the delivery of the development. **To ensure new development does not have an adverse effect on any European Protected Sites, the required waste water treatment capacity must be available including any associated sewer connections in advance of planning consent**

v. Development that provides for a truly balanced and inclusive community and meets the housing needs of local people including a mix of dwelling sizes, tenures and types including provision for self- and custom-built homes and provision for the aging population; to meet the requirements of those most in need **including a minimum of 30% affordable housing** in each garden community.

vi. **In accordance with the Garden Community Charter principle of providing one job per household within the new community or within a short distance by public transport** Provide and promote opportunities for employment within each new community and within sustainable commuting distance of it. **Around 850,000 square metres of floorspace will be provided in total, with allocations to be defined within Development Plan Documents for each Garden Community totalling some 138 hectares.**

vii. Plan the new communities around a step change in integrated and sustainable transport systems for the North Essex area that put walking, cycling and rapid public transit networks and connections at the heart of growth in the area, encouraging and incentivising more sustainable active travel patterns

viii. Structure the new communities to create sociable, vibrant and walkable neighbourhoods with equality of access for all to a range of community services and facilities including health, education, retail, culture, community meeting spaces, multi-functional open space, sports and leisure facilities

ix. Develop specific garden community parking approaches and standards that help promote the use of sustainable transport and make efficient use of land.

- x. Create distinctive environments which relate to the surrounding environment and that celebrate natural and historic environments and systems, utilise a multi-functional green-grid to create significant networks of new green infrastructure including new country parks at each garden community, provide a high degree of connectivity to existing corridors and networks and enhance biodiversity
- xi. Secure a smart and sustainable approach that fosters climate resilience and a 21st century environment in the design and construction of each garden community to secure net gains in local biodiversity, highest standards of energy efficiency and innovation in technology to reduce impact of climate change, **the incorporation of innovative water efficiency/re-use measures** (with the aim of being water neutral in areas of serious water stress), and sustainable waste and mineral management.
- xii. Ensure that the costs and benefits of developing a garden community are shared by all landowners, with ~~appropriate~~ measures being put in place to equalise the costs and land contributions where appropriate.
- xiii. Consideration of potential on-site mineral resources through a Minerals Resource Assessment as required by the Minerals Planning Authority.
- xiv. Establishment at an early stage in the development of the garden communities, 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 developments and include community representation to ensure residents have a stake in the long term development, stewardship and management of their community.

These principles are elaborated upon in the North Essex Garden Community Charter.

A Development Plan Document will be developed for each of the garden communities to set out **how they will deliver** the **above** principles **as well as further detail** of their design, development and phasing. ~~A as well as~~ a mechanism to appropriately distribute housing completions to the three Councils ~~and this~~ will be agreed through a Memorandum of Understanding.

Appendix 2

Letter dated 26 June 2019 to the NEAs and letter dated 18 October 2019 to NEGC setting out unanswered questions