

**Marks Tey Parish Council**  
**Proposed Local Plan**  
**Review of Inspectors Letter to Planning Authorities**

A week last Friday the Local Plan Inspector made public his letter of comments on Part 1 of the Local Plan (Strategy & Spatial Proposals, Garden Communities - GCs) which he had sent to the Planning Authorities (PA - Braintree, Colchester, & Tendring Councils) a week before. Part 2 of the Local Plan (LP) concerns growth and policies for the town and villages not affected by the proposed Garden Communities.

The Inspectors job is a statutory part of the Local Plan process, and is to assess the soundness & legality of the whole of the proposed Local Plan. The PAs had asked for Part 1 (the Garden Communities - GCs) to be agreed first so that this could be adopted & started. The Inspector seems to have a very good grasp of the key issues. His Letter (and it is a letter not a report as he is not sure of the legality of splitting the two parts) has gone through the Local Plan proposals with a fine toothed comb, is diligent and perceptive, and presented diplomatically without pulling punches.

**The Inspector has said that while he supports what the PAs are trying to achieve with the GCs and he discounts many of the objection raised on the LP, he finds that the GC proposals are unsound, that separate approval of Part 1 needs more legal clarification, and that the Suitability Assessments (independent tests of the logic and conformity behind the Local Plan) prepared by ECC Place Services are flawed. Much more work is needed & the Inspector offered 3 options going forward:**

- **Remove the GC proposals (para 148) - resubmit** (say in 2-3 years)
- **Work up Part 1 before assessment of Part 2 (para 152) - big delays as Part 2 may go out of date.**
- **Withdraw LP, rework, & resubmit (para 156)** – (starting LP again - again big delays probably greater than 3 years)

I try to give below, more detail of the Inspectors reasons for the above. The numbers in brackets refer to the 158 paragraphs in the 32 page Letter (so that you can refer to the detail). Anything else in brackets is likely to be my comments and I refer to, and only look at, the proposed Colchester and Braintree Borders Garden Community as Marks Tey Garden Community or MTGC. At the end I try to guess at the implication to us in Marks Tey and any things we might need urgently to do. This is my reading of the Letter and its consequences and intended to aid our understanding, thinking and actions. Other will have their own view and I invite them to share this again to aid our understanding and future action. I report in the order covered in the Inspector's Letter.

**Duty to Cooperate & Habitat Regs (7-26)**

- The LP is sound in its Duty to Cooperate, as is the rejection of the decision on Monks Wood (Pattiswick), & Metro Town (by CAUSE), but subject to the SA comments below and some more work needed to confirm EU regulation will be met on Habitat.

**Cross Border Garden Communities**

- Whilst the Inspector supported the principle of the cross border GCs and said sharing housing allocation was sound, the plan should also state how this would be dealt with if there were shortfalls on housing delivery (54).

- The inspector had a number of comments on Transport issues (32-).
  - As the A12 & A120 are fundamental to 2 of the 3 GCs their programming & routes are crucial to the GCs they are not sound until these are programmed, although some temporary alleviation may be possible (34).
  - Also the Marks Tey GC is only possible with the A12 routed behind the shops which is yet to be proven viable (35).
  - The major criticism is that the proposed Rapid Transport System is essential to the viability of the GCs & work on this & costs is at an early stage (36-39). Therefore more work needed on
    - What modal option & costs
    - Passenger & revenue forecasts
    - Delivery timetable
    - i.e. what costs & where from? (41-44)
  - Marks Tey Station
    - Strong feature of MTGC but badly located for proposals. £50m assumed cost reasonable but programmed 2057/8 too late for GC plus Sudbury line adjustments unresolved (45-46).

### **Delivery of Market & Affordable housing**

- 300 dwellings/yr from 2031/32 is too optimistic & 250 should be used. This obviously affects the proposals (48).
- Improvements needed in the GC financial viability report by Hyas as this needs to show how 30% affordable housing can be achieved (55).

### **Employment**

- Plan should state indicative areas for employment land & floorspace & not leave this to DPDs & the conflicts in the stated need has to be resolved (59-60).

### **Viability**

- Transport infrastructure cost, land purchase interest, & contingency not dealt with adequately (62). Thus financial viability not shown. Discounted cashflow needed (86).
- Transport Infrastructure
  - Rapid transport costs not known & GC can only match lowest estimates.
  - GC costs towards A12 & A120 needs defining (68).

### **Purchase & Interest**

- 6% assumption needs justification but no allowance for land purchase interest included contrary to current thinking. This has big effect & makes figures questionable (69).

### **Contingencies & Sensitivity**

- Master Developer profit ok but should not be a contingency & higher contingencies of 40% as used by Highways England should be tested (74-82).
- Land purchase figures need to show sufficient uplift over existing to get purchasers to sell. Else CPO needs to be shown & be compatible with Human Right legislation (83).

## **Delivery Mechanisms**

- Public sector Master Developer not a legal or practical requirement – other ways of doing it. Could be done in ways not examined but imposition of responsibilities on landowners & promoters ok (89-90).
- Principle of sharing risk & reward ok but public sector cannot apportion revenue & profit. Needs clarification (91).
- Remove 'new modes of delivery' as LP does not need these to be sound. (92)

## **Sustainability Assessment (SA)**

- The bulk of the Inspectors comments concern the SA (50 of 158 clauses). These are two documents prepared by ECC Place Services (acting as consultants not ECC!) at Options, & Draft Publication stage of the LP, effectively testing the sustainability of what had been produced. The
- Inspector recommends new SA required from new consultant to ensure no carry over (128).
- 3 short comings (96)
  - Lack of objectivity of assessment of chosen options therefore unreliable (100)
    - Too positive a score given to GC cos of shortcomings in transport and employment issues above (99)
    - Health and Viability positive scores not proven
    - Alternative 4 (expansion of existing settlements) over penalised (98)
  - Clarity of description of alternatives
    - Poor descriptions of alternatives likely to breach legal requirements for SA
  - Selections of alternative GCs
    - Variations of ways of dealing with Monks Wood GC (Pattiswick)
- Other SA Issues - 5k dwelling min size of GCs reasonable (116-118)
- SA Conclusions (119 -)
  - Spatial Strategy not demonstrated to be most appropriate against alternatives (119)
  - PAs to get Inspectors agreement to SA revised brief (120)
  - Monks Wood, Metro Town, varying number of GCs, and expansion of existing settlements need to be assessed as part of revised SA (125)

## **What Went Wrong?**

- Firstly, I have to say that I feel a bit sorry for CBC, their proposals were innovative (as the Inspector recognised), were of national importance, and no-one had done them before (so nothing to build upon). In such a situation it is highly likely anyone will not do it perfectly. However, the Inspectors job is to say whether it will work or not, and whether it is legal. He has no room for uncertainty. He cannot say 'probably'. CBC know this and the failure has been in the peer review of their work, which should have spotted the gremlins, or CBC's inability to pick up on what was said, or the lack of time to do this.
- The Inspectors Letter will have been a big deal for the three authorities (PAs) and no prior publicity prepared for this outcome. CBC will be preparing what approach to take for a decision at their reconvened Local Plan Committee meeting now set for 13<sup>th</sup> Aug 2018.
- I think the Inspector was right on the button when he questions the process, alternatives, and process for choosing the 3 GCs. I don't think there was any

and I said this at the Committee when the GCs were first proposed (the report to Members simply said there were no valid alternatives without stating them and their pro and cons).

- It is probably the right solution though, as containing growth by expanding town and villages in the normal way would be a disaster compared to new sustainable communities (if they can be achieved) and the Inspector recognises this.
- All of CBCs politicians are on board with this, their differences are on size and timing.
- The PAs have been overly optimistic and MTPC has consistently questioned CBCs ability to deliver.
- The biggest threat to GCs is financial viability. The lowered housing completion rate (and CBC can contest this if they can show the Inspector proof for their 300/yr assessment) will mean lower income and increased costs from the transport issues: RTS, A12 & A120, and an earlier station could make it financially non viable

### **What Happens Now**

- Time is of the essence. CBC's current Local Plan ends in 2021, Braintree DC have a Core Strategy in place until 2026, Tendring DC do not have a current Local Plan and are therefore susceptible to planning appeals being granted to developers against planning permission rejections unless proved to be against a current Local Plan (hence the number of predatory developments being reported in Tendring). It is important to get a new Local Plan in place asap. There is no time to start again plus the wasted effect and cost.
- The bulk of the growth to be soaked up by the GCs does not come until the next Local Plan in 15 years time and CBC were only looking at 2,500 dwellings from this first phase (but were rightly trying to set the scene to start the infrastructure).
- If it were me, I would opt for the Inspectors first choice – remove the GCs and re-submit with the intension of reintroducing the GCs in a later Local Plan revision when the extra work is concluded (if this proves them viable). I think Compulsory Purchase will have to be proved viable to be an approach in this as the only financial tolerance is land purchase value.
- I would thus not be surprised at an imposition (from CBC) of 1,500 dwellings on Marks Tey (and East Colchester) as a Part 2 allocation (like other village allocations).
- The majority of Colchester probably wouldn't complain (as to do so would mean them getting more housing), CAUSE might complain, and there would be local objection (but the 500 dwelling Marks Tey got 1,000 additional houses back in the 1970's).

### **How Does This Affect Marks Tey**

- Marks Tey is likely to get additional housing either through GCs or revised Part 2 allocation with their removal – the question is how much.
- Marks Tey faces a longer period of uncertainty.
- The situation has not gone away – if anything it has got worse.
- Gateway120/Cirus Land will probably be emboldened.
- On the A12 and A120, will a delay affect the dualling of the A120.
- Even if it goes ahead, this is likely to be the option which leaves us with the most residual traffic that won't be dealt with by GC proposals?

- On the A12, the Inspector says that if there is a Marks Tey GC then it should go round the shops but will there be a MTGC?
- We need our Neighbourhood Plan probably more urgently than before.
- Grangers Lane is now well worth chasing as this area could be threatened with development.
- The key issues for the NP are likely to be how do we handle any imposed housing:
  - to consolidate the village using land opposite Ashbury Drive and the London Road shops but how do we reduce traffic through Marks Tey;
  - all opposite, but separate from, Little Tey to fund a Marks Tey bypass;
  - or all behind the London Rd shops close to the station and imposing minimum load on the Coggeshall Rd?

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23<sup>rd</sup> June 2018