

**COUNCIL-LED GARDEN COMMUNITY**

<b>Final Decision-Maker</b>	Policy & Resources Committee
<b>Lead Head of Service</b>	William Cornall – Director of Regeneration & Place
<b>Lead Officer and Report Author</b>	William Cornall – Director of Regeneration & Place
<b>Classification</b>	<p>Public but with private Appendix – Not for Publication</p> <p><b><u>Exempt Category</u></b></p> <p>The information contained within the report has been considered exempt under the following paragraph of part I of schedule 12A to the Local Government Act 1972:-</p> <p>3 = Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> <p><u>Public Interest Test</u></p> <p>That the public interest in maintaining the exemption to ensure the council's financial position is not undermined and compromised outweighs the public interest in disclosing the information.</p>
<b>Wards affected</b>	All.

**Executive Summary**

Informed by the Council's new Strategic Plan, and in particular the priority of "Embracing Growth and Enabling Infrastructure", officers have been exploring the possibility of bringing forward a Council-led Garden Community. Possible locations were evaluated, and this Committee selected a preferred location on 22<sup>nd</sup> May 2019, that was subsequently submitted into the Council's own "call for sites" exercise that forms part of the Local Plan Review. In terms of decision making, it is important to understand the in the context of the Local Plan, that the Council wears two hats, that of the Local Planning Authority (LPA), but also in this case, that of (potential) property owner/developer. Any decisions made by the Committee in respect of this report will

be made on the basis of being the (potential) property owner/developer rather than LPA. This was the case for the 22<sup>nd</sup> May decision too.

The Council to this point has entered into preliminary discussions with the larger landowners in the search area and this report provides a summary business case for the whole proposition which demonstrates a positive position and on this basis seeks a mandate from this Committee to advance commercial negotiations, to allocate sufficient financial resource to support this activity in order to develop the proposition more fully pending a further report to this Committee, most likely in quarter 4 of the current financial year.

### **Purpose of Report**

Decision

### **This report makes the following recommendations to this Committee:**

1. To note the business case for a council-led Garden Community in the target location as detailed in exempt Appendix 1.
2. To continue to pursue a Council-led Garden Community in the target location with a view to acting as master-developer.
3. To agree, subject to recommendation 2 being agreed, that the Council should issue a media statement concerning a Council-led Garden Community which, amongst other things, identifies the location; or alternatively, if recommendation 2 is not agreed, that the council will withdraw its Garden Community submission from the call for sites.
4. To agree, subject to recommendation 2 being agreed, that the Council should explore potential partners for its role as master-developer as set out in paragraph 2.9

### **Timetable**

<b><i>Meeting</i></b>	<b><i>Date</i></b>
Policy & Resources Committee	18 <sup>th</sup> September 2019

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## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>Accepting the recommendations will materially improve the Council's ability to achieve all of the corporate priorities.</p>	Director of Regeneration & Place.
<b>Cross Cutting Objectives</b>	<p>The report recommendations support the achievement of all the cross cutting objectives.</p> <p>Through delivering much needed homes to include 40% affordable housing of which 70% would be for social rent. The emerging masterplan is landscape led with 50% of the total proposed as green space. Led by the ambitions set out in the Strategic Plan the Council can ensure that the design principles of development where it is the master planner reflect the commitment to reduce health inequalities amongst other things.</p>	Director of Regeneration & Place.
<b>Risk Management</b>	See section 5.	Director of Regeneration & Place
<b>Financial</b>	<p>The cost to date of developing the proposals set out in the recommendations is within already approved budgetary headings.</p> <p>The cost of delivery (if the Garden Community project is pursued as proposed) will be the subject of a separate capital funding bid within the 2020/21 Budget preparation and (2020/21 to 2024/25) Medium-Term Financial Strategy process, which is now commencing.</p>	Interim Head of Finance (Deputy Section 151 Officer)

<b>Staffing</b>	<ul style="list-style-type: none"> <li>We will need access to extra expertise to deliver the recommendations, as set out in section 3.</li> </ul>	Director of Regeneration & Place.
<b>Legal</b>	Acting on the recommendations is within the Council's powers as set out at the Local Government Act 1972, the Local Government Act 2003 and the Localism Act 2011.	Russell Fitzpatrick (MKLS (Planning) Team Leader
<b>Privacy and Data Protection</b>	<ul style="list-style-type: none"> <li>No Impact</li> </ul>	Policy and Information Team
<b>Equalities</b>	<ul style="list-style-type: none"> <li>Equalities is a key consideration of engagement with the community, ensuring that all groups (inclusive of those with protected characteristics) are involved in the process.</li> </ul>	Equalities and Corporate Policy Officer
<b>Public Health</b>	<ul style="list-style-type: none"> <li><i>We recognise that the recommendations will not negatively impact on population health or that of individuals.</i></li> </ul>	Director of Regeneration & Place
<b>Crime and Disorder</b>	The recommendation will not have a negative impact on Crime and Disorder.	Director of Regeneration & Place
<b>Procurement</b>	<ul style="list-style-type: none"> <li>There are currently no procurement decisions associated with this recommendation, however if a consultant or contractor is engaged to work for the Council on this project then Procurement will be conducted and the correct process will be followed in accordance with the Financial Procedure Rules.</li> </ul>	Procurement & Contracts Manager

## 2. INTRODUCTION AND BACKGROUND

2.1 The Maidstone Local Plan Review is underway and is due to be concluded by April 2022. An element of the review process will be to extend the plan period by a minimum of six years to at least 2037, and to allow for increased housing numbers with effect from 2022 brought about by the introduction of the revised housing need methodology. Members' have expressed a desire to explore the possibility of a Council-led Garden Community (or Communities) playing a part in accommodating future

housing growth, and in particular for the Council to play a lead role in terms of master-planning and delivery of new homes. In terms of the latter, this desire to play a greater role in creating, shaping and possibly investing in new places has been captured in the Council's new Strategic Plan too.

- 2.2 Therefore officers, with the assistance of specialist consultancy support, explored possible locations for a Council-led Garden Community. This committee endorsed the preferred location and made a decision to develop a proposal for that location more fully and to submit it into the "call for sites" exercise, which was duly undertaken. The Council's submission will eventually be evaluated, along with all other submissions, by the Strategic Planning and Infrastructure Committee (i.e. by the Council wearing its LPA hat).
- 2.3 Given the mandate from this Committee, officers have advanced the preliminary discussions with the principal landowners that own approximately 80% of the land that would be required for a Garden Community of circa 5,000 homes. All of these landowners have signed non-disclosure agreements with the Council's lead consultant.
- 2.4 The Council has now appointed a specialist firm of legal advisors to help us shape the proposition and the associated governance arrangements, their brief covers the following:
  - Entering into an initial lock-out agreement with the landowners.
  - Entering into a memorandum of understanding / collaboration with the landowners (prior to entering into the option agreements).
  - Evaluating and making a recommendation as to the appropriate delivery vehicle (perhaps with reference to ideas contained within the Letwin review), to include scenarios where partners can be included.
  - Scenarios for the long-term management of the Garden Community.
  - Scenarios for the long-term stewardship of the Garden Community.
  - Entering into the land option agreements themselves.
- 2.5 Officers and the Council's planning advisor have met with landowners individually and as a group. The Council's legal advisor was also present at meetings with the group of landowners, and they explained to the landowners how a deal could be structured and what agreements would need to be in place in order to secure a new Garden Community with appropriate infrastructure. The landowners have appointed their own overarching legal advisor too, and so there is now, subject to the Committee's decision, a good foundation upon which to build commercial discussions. Furthermore the landowners have also engaged a commercial land agent to advise them too.
- 2.6 In addition, the Council has also appointed a specialist firm of property advisors to produce a high-level business case for the proposition, based on evidence-based income and expenditure assumptions. The model produced also makes realistic phasing assumptions taking account of the need for considerable upfront infrastructure investment. The financial summary and underlying assumptions are shown at the exempt **Appendix 1**. The firm of advisors appointed have an extensive client base of developers and national housebuilders, and so the Council can be content that the conclusion

reached that the overall proposition is financially deliverable, with land-value capture funding the required on and offsite infrastructure is sound.

- 2.7 Whilst the business case is encouraging, the project is significant in terms of overall value and risk. If approval is given to progress the proposition, the Council will need to explore working with partners for example as investors or delivery partners, and to give careful consideration as to who might they be. Our legal advisors are providing guidance on this front based on best practice from elsewhere, but firm decisions on this are not required at this stage.
- 2.8 With this in mind, the aspiration would be for the Council to lead the process of creating and delivering the Garden Community, acting as master-developer and undertaking the following tasks:
- Securing the land options.
  - Promoting the proposal through the Local Plan Review through to allocation.
  - Engaging with the community and interest groups
  - Engaging with infrastructure providers
  - Creating an exemplar masterplan and securing outline planning consent
  - Creating a design code.
  - Creating an infrastructure plan possibly supported by third party investment.
  - Creating a long term stewardship governance structure.
  - Installing long-term high-quality estate management arrangements.
  - Leading the delivery process including attracting high quality developers / housebuilders to take forward the detailed design and delivery of land parcels on a phased basis. I.e. as the Council takes up its land options on a phase by phase basis, it would “back-to-back” sell on land parcels to delivery partners to build out in accordance with the Council’s vision, so the Council would be the orchestrator.
- 2.9 Returning to Appendix 1, the overall costs and sales revenues in respect of a Garden Community would be considerable, but partners would be sought to fund and so take the development risk. However, were the Council to be successful with the proposition through the Local Plan Review process, and so undertake the tasks set out in 2.8 above, this would likely mean incurring costs in the region of £5m in respect for staff, consultancy and options fees combined. This expenditure could be recovered by the Council capturing a small percentage uplift when land passes through the Council from landowner to developer / housebuilder. That said, should the proposal fail, ultimately such an investment could become abortive, so the Council must be prudent. With this in mind, it could be beneficial to secure a partner/s even at this early stage to share this circa £5m risk. It is recommended that, subject to this Committee agreeing to progress a Council led Garden Community further, this partnering approach be explored and subsequent recommendations brought back to this committee, most likely in quarter 4.
- 2.10 Until then the Council will need to continue to financially invest in the proposal in terms of consultancy support. To date approximately £75k of capital expenditure has been incurred on consultancy advice and a further

£75k will need to be expended to make a total of £150k by the end of the financial year. In all likelihood, the proposal will in the next six months either start to gain traction through the Local Plan process or fall away (either because terms cannot be agreed with the Landowners or the proposal is not supported by the Council wearing its LPA hat), so quarter 4 is a sensible juncture at which to take stock.

- 2.11 Therefore, the primary decision for this Committee at this point, having already submitted the proposal into the “call for sites” exercise is whether it wishes officers to press ahead with the proposal, demonstrating commitment and intent in the public domain, and continue to pursue it through the Local Plan process, or alternatively end its interest. In terms of continuing for a further six months, the financial exposure is not unreasonable.
- 2.12 In continuing, the Council will for a finite period of time be placing the local community into a period of uncertainty. The landowners will also be placed in a complex dynamic, and the Council itself will quite rightly be scrutinised in terms of whether it is right that it should play a more direct role in delivery of growth and infrastructure through extending its remit beyond purely that of the LPA, to that of master-developer.
- 2.13 If the Committee is minded to press ahead with the proposal it recommended that a media statement is made which identifies the location of the proposed Council-led Garden Community; alternatively, if the Committee chooses to end its interest in the proposal, officers will simply withdraw it from the “call for sites” process.
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### **3. AVAILABLE OPTIONS**

- 3.1 Option 1 -The Committee could decide to continue to pursue a Council-led Garden Community in the target location through the Local Plan process, and so give the officers the mandate to advance the commercial negotiations with the principal landowners and bring back the proposed detailed terms for approval by this Committee in 3-6 months. A detailed business case delivery strategy would be included that would set out the indicative timescales, partners, governance and processes required to attempt to take the proposition through to a successful “allocation”, whilst being cognisant of further at risk expenditure, the uncertainty for the community affected, and the interest that there will be in the proposition generally and the Council’s role within it more specifically. This option would give the Council the best opportunity of realising some of its key priorities contained within its new strategic plan.
- 3.2 Option 2 - Alternatively the Committee could choose to end its interest in the proposal.
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#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

4.1 The preferred option is 1; The high level business case demonstrates that the proposition for a Council-led Garden Community as currently envisaged is viable and would offer a deliverable project to achieve a significant contribution to the borough's need for homes, employment and associated infrastructure.

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#### **5. RISK**

5.1 The risks at this stage have been covered in the main body of the report, and can be summarised as:

- At risk consultancy expenditure to March 2020.
- A period of uncertainty for the community affected.
- Possible negative perceptions of a broader role for the Council in the context of acting as master planner.
- Maintaining cohesion amongst the landowner group.

#### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

6.1 Nothing further to report at this stage.

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#### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

7.1 To advance the commercial negotiations with the principal landowners and issue the proposed media statement (if necessary).

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#### **8. REPORT APPENDICES**

Exempt Appendix 1: Overall proposal business case.

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#### **9. BACKGROUND PAPERS**

Committee Members may wish to familiarise themselves with the Maidstone Garden Community Prospectus that was issued as part of the "call for sites" exercise within the Local Plan Review. The link for this is;

[http://www.maidstone.gov.uk/\\_data/assets/pdf\\_file/0009/260829/New-Garden-Communities-Prospectus-February-2019.pdf](http://www.maidstone.gov.uk/_data/assets/pdf_file/0009/260829/New-Garden-Communities-Prospectus-February-2019.pdf)

Committee Members are able to make an appointment via [lorraineunderdown@maidstone.gov.uk](mailto:lorraineunderdown@maidstone.gov.uk) if they wish to come to the offices to read in private the Vision document for the proposal but it cannot be taken off site and electronic versions cannot be provided either.