



## Appeal Decision

Inquiry conducted by written submissions, 11 June – 24 July 2020

Site visit made on 9 June 2020

**by John Felgate BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Housing, Communities and Local Government**

**Decision date: 18 August 2020**

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### **Appeal Ref: APP/A1530/W/20/3248038**

#### **Land off Maldon Road, Tiptree, Essex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Bloor Homes Limited, against the decision of Colchester Borough Council.
  - The application Ref 192025, dated 31 July 2019, was refused by notice dated 5 February 2020.
  - The development proposed is *“residential development up to 255 dwellings, with associated car parking, landscaping, public open space areas, SUDS, link road, associated infrastructure, and provision of parent drop-off area for Tiptree Heath Primary School”*.
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#### **Decision**

1. The appeal is dismissed.

#### **Preliminary matters**

2. As originally submitted, the description of the proposed development included up to 275 dwellings. In November 2019, with the agreement of the Council, this was amended to 255 dwellings. The Council’s decision on the application was made on this basis, and I have dealt with the appeal in the same way.
3. The appeal seeks outline permission, with all detailed matters reserved except for access. The proposed access is shown indicatively on the Development Framework Plan, 18-2833-P002 D, and in more detail on Plan 183310-002 C. In both cases, these are revised versions of the plans that were before the Council, but the changes are not contentious, and I do not consider that anyone is likely to be prejudiced by considering the appeal on this basis.
4. In all other respects, the submitted plans are illustrative. However, it is agreed between the Council and the appellants that some of the other matters shown those plans, including building heights and landscape buffers, could be incorporated by condition. In reaching my decision, I have had full regard to the possible scope for conditions on these and other matters.
5. The appeal was due to be considered at a public inquiry, scheduled for 9-12 June 2020. In the light of the restrictions brought in to combat Covid-19, an oral event could not be held at that time. As a result, with the agreement of the Council and the appellants, the inquiry was converted to a written format. The format included an exchange of proofs of evidence, followed by written rebuttals, then a series of written Inspector’s Questions to the parties, followed

- by Further Questions, and written closing submissions. This procedure was completed, and the inquiry was closed, on 24 July 2020.
6. In addition to the public consultation carried out at the application and appeal stages, members of the public were enabled to view copies of the proofs and rebuttals on the Council's website, and invited to make further comments on these. Over 200 further responses were received from members of the public and others during this further consultation. I have taken into account all of the submissions received at each of these stages. In the circumstances, I am satisfied that all those who would have been likely to wish to attend the inquiry have had adequate opportunities to make their views known, and consequently that the procedure adopted has been fair to all parties.
  7. I undertook an unaccompanied site visit on 9 June 2020. During my visit, I walked the public footpaths that skirt and cross the appeal site, together with all other nearby public footpaths and surrounding roads. From these I was able to view the site from all of the viewpoints identified in the evidence. I also saw all of the other local features which have been referred to in submissions, including Tiptree Heath School, Tiptree Heath village, Tiptree town centre, the other housing sites proposed in the draft Tiptree Neighbourhood Plan, and the site of the recent appeal decision at Barbrook Lane<sup>1</sup>.
  8. During the course of the appeal, the appellants entered into a Section 106 Undertaking, containing planning obligations in favour of both Colchester Borough Council (CBC) and Essex County Council (ECC). Of these, the principal obligations relate to affordable housing; on-site open space, including a play area and land for a possible future junction improvement; and financial contributions to education, healthcare, community facilities, archaeology, and for off-site open space, sport and recreation, and also for the mitigation of impacts on protected habitats. In the light of the Undertaking, CBC withdrew its refusal reasons no's 4 and 5, which included these matters.
  9. Screening under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 has been carried out by the Planning Inspectorate (PINS), on behalf of the Secretary of State (the SoS). In a Direction dated 9 June 2020, the SoS determined that the proposed development was not 'EIA development'.
  10. On 15 July 2020, a request was received from Tiptree Parish Council, for the appeal to be recovered by the SoS for his own determination. That request was refused in a letter from PINS dated 21 July 2020.

### **Policy Framework**

11. The statutory development plan for the area comprises the adopted and saved policies of the Colchester Borough Core Strategy (the CS), the Site Allocations DPD (the SADPD), the Development Policies DPD (the DPDPD), the Proposals Map, and the Essex Minerals Plan (the EMP).
12. Of these, the CS was originally adopted in December 2008, and the SADPD, DPDPD and Proposals Map in October 2010. Focussed reviews of the CS and DPDPD, with updating of some policies, were adopted in July 2014. For the avoidance of doubt, references in this decision to the CS or DPDPD are to the

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<sup>1</sup> CD 7.6 (SoS's appeal decision and Inspector's Report – Land at Barbrook Lane, Tiptree, APP/A1530/W/19/3223010, 7 April 2020)

consolidated versions, including revised policies where applicable. The EMP was adopted in July 2014.

13. A new Local Plan for the Borough (the draft LP), to replace the CS, the SADPD and the DPDPD, is in the draft stages. The submission version was published in June 2017. Part 1 of the plan contains strategic-level, cross-boundary policies, prepared jointly with Braintree and Tendring Councils. That part of the plan is undergoing Examination, and is heading towards consultation on the Inspector's proposed modifications. The examination of Part 2 of the draft LP is intended to commence after the content of Part 1 has been finalised. The Council and appellants are agreed that the draft LP in its current form carries limited weight, and given the stage of progress reached, I concur with this approach.
14. The draft Tiptree Neighbourhood Plan (TNP) was subject to public consultation under Regulation 14 in June - July 2019, and was submitted to the Council in March 2020. As at the close of the present appeal inquiry, further consultation under Regulation 16 was in progress, and due to finish on 10 August 2020, with a view to commencing the Examination shortly thereafter. Relevant objections are anticipated. Until any such objections have been considered through the Examination process, the draft TNP carries limited weight.
15. A replacement Minerals Plan is in the very early stages, and as yet carries no weight.
16. The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are material considerations, and I have had regard to these where appropriate.

### **Main issues**

17. In the light of all the submissions made, the main issues in the appeal are as follows:
  - i) whether Colchester Borough has a 5-year supply of land for housing;
  - ii) the extent to which the proposed development would accord or conflict with relevant policies for the location of housing in the adopted Development Plan, and the weight to be given to those policies;
  - iii) the extent to which the scheme would accord or conflict with the location policies of the emerging draft Local Plan and draft Neighbourhood Plan, and whether the development would be premature in relation to those plans;
  - iv) the effects on the character and appearance of the area's landscape and townscape, including the setting of Tiptree and its separation from Tiptree Heath;
  - v) the effects on mineral resources.

### **Issue (i): Housing land supply**

#### *The housing requirement*

18. The Council's case is based on the draft '2020 Housing Land Supply Annual Position Statement', dated April 2020. Although this draft statement is acknowledged to be based partly on estimated completions data, due to the Covid-19 restrictions, it is accepted as the best and most up-to-date information available in the circumstances. Using the Standard Method, it is

agreed that the 5-year requirement for the period 2020-25, including a 5% buffer, is 5,659 dwellings.

19. Against this requirement figure, the Council's claimed supply amounts to 6,108 dwellings, or a surplus of 449 units.

### Deliverability

20. Out of the nine disputed sites identified in Table 3.1 of the Statement of Common Ground, agreement has since been reached with regard to one of these, the Brierley Paddocks site. The disagreements between the parties therefore relate primarily to the remaining 8 sites.
21. In terms of the NPPF's definition of 'deliverable', the majority of the disputed sites come within Category (b), due to either having outline planning permission<sup>2</sup>, or being allocated for housing<sup>3</sup>, or being included in a Brownfield Register<sup>4</sup>. In these cases, to be considered deliverable, the NPPF requires clear evidence that housing completions will begin within five years.
22. The remaining three sites<sup>5</sup> fall outside of both Categories (a) and (b). However, in the light of the Consent Order agreed by the SoS in the case of *East Northants Council v SoS and Another*, it is now clear that this need not prevent these sites from being deliverable, provided that they otherwise meet the requirements set out in the NPPF's definition.
23. In any event, I have considered all of the disputed sites against the NPPF's over-arching test for deliverability, which is that sites should be available, suitable, and achievable with a realistic prospect of housing being delivered within five years. I have also had regard to the related advice in the PPG, which gives examples of the types of evidence that may be relevant. These include any progress towards the submission of an application, or progress on site assessment work, or information about viability, ownership or infrastructure.

### The disputed sites

#### *Land North of Magdalen Street*

24. The site known as Land North of Magdalen Street benefits from a previous, partly-implemented permission, but this is not now relied on, as the developer regards that scheme as no longer viable. However, a subsequent full application for a revised scheme has recently gained a Committee resolution to grant permission, subject to a S.106 agreement. Furthermore, the heads of terms for the latter are said to be already agreed. The revised total of 119 units at the site is one less than in the Council's draft position statement, but the difference is not significant.
25. It is always possible that finalising an agreement may take longer than expected, and with the continuing effects of the Covid-19 pandemic, there is added uncertainty. But nevertheless, the Council's trajectory for the site does not rely on any completed units until year 2023/24, which allows a reasonable amount of time for further negotiations if necessary, as well as the discharge

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<sup>2</sup> The only site with outline permission is Halstead Road, Eight Ash Green

<sup>3</sup> The sites which are allocated in adopted plans are: Fiveways Fruit Farm, Essex County Hospital, Garrison K1, and Mill Road Rugby Club

<sup>4</sup> The Essex County Hospital site is also on a Brownfield Register

<sup>5</sup> North of Magdalen Street, East of Hawkins Road, and Land at Berechurch Hall Lane

of conditions. And in any event, the position which has been reached now, in terms of the progress of the application and related site assessments, substantially exceeds the PPG's threshold of progress towards an application.

26. In the Barbrook Lane decision, the Magdalen Street site was expected to contribute only 72 dwellings to the 5-year supply, albeit that in that case the relevant 5-year period was 2019-24. But it is not necessary for me to know in detail the reasons why the figures for individual sites may have changed. I have considered the evidence before me now on its own merits. I have taken account of the site's history of rather slow progress, but this preceded the stage that has now been reached, and cannot be taken as an indicator of future performance. It is clear from the evidence submitted that the developer is committed to the development.
27. Like most of the other disputed sites, the availability and suitability of the Magdalen Street site are not in issue, but only the achievability. In the light of the foregoing matters, I am satisfied that there is sufficient clear evidence to show that the development can be expected to be completed within the relevant 5-year period. Although this does not amount to absolute certainty, it would not be realistic to interpret the relevant guidance as seeking that level of proof. In this case the evidence clearly shows, at the least, a real prospect of delivery within five years. The site is therefore deliverable, within the terms of the NPPF definition.

#### *Essex County Hospital*

28. Turning to the Essex County Hospital site, in the Barbrook Lane appeal the Inspector was not persuaded that there was a realistic prospect of the site being developed within 5 years, and the SoS did not disagree. Since then however, applications for full planning and listed building consents have been submitted and consulted on, and further revised plans have been submitted in response to the relevant officers' assessments. As at the close of the present inquiry, a recommendation of approval had been made, and was about to be considered by the Planning Committee.
29. I fully accept that the Hospital site does not as yet have planning permission, nor even a resolution. However, as set out above, when the relevant paragraphs of the NPPF and PPG are read together, showing deliverability is not necessarily dependent on reaching that stage. Again it is apparent that the progress that has been made, with the submission and consideration of the current applications and related assessments, meets and exceeds the relevant thresholds in the PPG.
30. The sale of the land has yet to be completed, but it is said that Essex County Council's own housing company, Essex Housing, has been selected as the preferred developer, and the transfer therefore appears to be mainly now a matter of legal formality. The scheme will involve some demolition, but there is no evidence that this will be a complex or lengthy process. In any event, the Council's trajectory for the site allows for some slippage, if necessary, without going beyond the relevant period.
31. In the light of the above, the evidence clearly points to the development being completed at some time before April 2025. I consider there is sufficient clear evidence to justify the site being counted as deliverable, yielding 120 units.

*'Garrison K1'*

32. With regard to the site known as Garrison Site K1, again this was not accepted as deliverable in the Barbrook Lane decision. However, since then an application for full permission for 33 units has been submitted, consulted upon, and revised. The application is made by a well-known social housing developer. Officers anticipate making a positive recommendation in the near future. Further consultation is still required before a formal decision can be made, but having regard to the relevant PPG advice, I am in no doubt that the progress made on this planning application, and related site assessments, is significant.
33. In considering Site K1, it seems to me highly relevant that the principle of residential development, as part of the larger Garrison Urban Village area, has been well established for some time. This has occurred through the 2004 Local Plan, the 2010 Site Allocations Plan, an adopted Development Brief, the Garrison Master Plan SPD, and the 2003 outline permission for the whole site. I also note that the remainder of the Garrison site is now developed or under construction. The Council's suggested trajectory seems to me to allow ample time for any S.106 agreement and the discharge of conditions.
34. I am therefore satisfied that Garrison K1 has a realistic prospect of housing completions within the relevant period, and should be counted as deliverable. The figure of 33 units in the current revised application is an increase of 8 compared to the number assumed in the draft position statement, but in the light of the evidence I see no reason not to accept this slightly higher figure. Again, the difference is not significant in the final calculation.

*Land East of Hawkins Road*

35. On the Land East of Hawkins Road, there is a current full application for 282 student apartments. There is no dispute that this equates to 113 housing units. The application has been under consideration for some considerable time, leading the Inspector in the Barbrook Lane appeal to conclude that the evidence before her was not robust enough to justify the site's inclusion. But be that as it may, I must consider the position based on the evidence before me now.
36. The Council states that the length of the negotiations to date reflects the authority's desire and commitment to securing a high-quality development. To that end, it is said that a significant measure of agreement has recently been reached with regard to a landscape and visual assessment. This evidence is not challenged. I can see no likely reason why either the Council or the developer would have continued to negotiate at such length unless both were committed to achieving a deliverable scheme. Although the process to date has evidently been slow and tortuous, it seems that continued progress is being made. Having regard to the PPG advice, it seems to me that this progress on the application and assessments falls clearly within the types of evidence that are relevant to deliverability.
37. Although the adopted local plan allocates Hawkins Road for employment, the Council's photographic evidence shows clearly the extent to which the area has been redeveloped in recent years with a high proportion of modern apartments. Despite the historic employment status, it is clear that the Council is now seeking to encourage regeneration including residential uses,

and this change is said to be reflected in the emerging draft replacement local plan.

38. The weight of the evidence therefore supports the Council's view. The current application is well advanced and appears to be progressing towards a grant of full planning permission. Although there has been a lack of urgency, the Council's trajectory does not rely on any dramatic change of pace in this particular case. I therefore find sufficient clear evidence of a realistic prospect that the development is likely to be completed within the 5-year period.

*Fiveways Fruit Farm*

39. The Fiveways Fruit Farm site has a current outline application for 442 dwellings, with a long-standing resolution to grant permission subject to a S.106 agreement. In the Barbrook Lane appeal, the SoS accepted that 250 of the proposed dwellings on the Fiveways site should be counted as deliverable within the relevant period. Although little tangible progress has been achieved since then, the Council states that this was due to a particular issue over education contributions, which has now been resolved. I have no reason to doubt this evidence. So, whilst the negotiations over the last year or so have been slow, there is nothing to indicate that they cannot now be successfully concluded in due course. Having regard to the NPPF and PPG, I consider that this evidence shows a realistic prospect that housing completions will be delivered within the relevant period.
40. With regard to the numbers, the Council's trajectory relies on achieving the first 50 completions in 2021/22, with 100 units per year thereafter. I appreciate that two developers are involved and will be operating in tandem. I also note that some of the new dwellings can be served from the existing road, which may reduce the lead time for those units. But even so, given the need for reserved matters and discharge of conditions for the development as a whole, this trajectory now looks somewhat over-optimistic, especially compared to that which appears to have been put to the Barbrook Lane inquiry. In my view, it would be more realistic to plan on the basis of extending the lead time by about a further 6 months, with the first completions coming in around the second quarter of 2022. On this basis, about 50 units would be lost from the final year of the 5-year period.
41. Overall therefore, I consider that the Fiveways site should remain in the deliverable supply, but with the dwelling yield reduced from 350 to 300 units.

*Colchester Rugby Club, Mill Road*

42. With regard to the Rugby Club site, at the time of the Barbrook Lane appeal, although an application had been submitted, the Inspector found insufficient evidence of deliverability. Since then however, the situation has apparently moved on in a number of ways. A second planning application has been made, and detailed permission granted, for the first phase of advance infrastructure works, including a renewable energy centre, a heat distribution network, a pedestrian boulevard with landscaping, and road access connections. Construction on these infrastructure works is now said to have started, and tender documents are in the process of being prepared for the remainder. Full grant funding for all of these works appears to have been secured, including over £5m from the Housing Investment Fund, and from other sources. In addition, arrangements have been made for the development to be managed

by Colchester Commercial Holdings, a Council-owned limited company, and the company has invested in additional resources and expertise for this purpose. Negotiations are also said to be in progress with third-party developers, to deliver specific parts of the development, including some of the housing and the extra-care units. As far as I can tell, all of these matters appear to post-date the Barbrook Lane inquiry.

43. It remains the case that the site does not yet have planning permission for the housing itself. And although the current hybrid application is said to include some detailed elements, the housing elements remain in outline. There is still also an unresolved issue regarding off-site highway requirements. These are potential impediments. But nevertheless, given the site's particular circumstances, the weight of evidence points to it being deliverable. Very large sums of public money and other public resources have been committed to the project. The works that have been approved and commenced are integral to the development, and there is no suggestion that they will serve any other purpose. In addition, the site is allocated in a made Neighbourhood Plan. Given the stage that has now been reached, whilst it is still possible that the highways issue might cause some further delay, it seems unlikely that this could ultimately prevent the application from being approved, or the housing elements of the scheme from proceeding to reserved matters and implementation.
44. The Council's trajectory assumes the first 50 completions in 2021/22, with 100 per year thereafter. Given the remaining uncertainty as to the timing of outline permission, and the potential for some delay due to this, it seems to me that it would be safer to allow for a longer lead time. On this basis, I consider that 50 units, equating to 6 months' at the projected full annual build rate, should be deleted. As at the Fiveways site, this reduces the number of dwellings to be counted towards the 5-year supply, from 350 to 300 units.
45. Subject to this adjustment therefore, I conclude that the site is deliverable, with a realistic prospect of delivering 300 dwellings.

*Halstead Road, Eight Ash Green*

46. The site at Halstead Road has outline planning permission, and a subsequent further permission for an amended access. The site is in the hands of an experienced land promoter, who has clearly devoted considerable time and resources to reaching this stage. To my mind this makes it likely that the costs of development will have been fully investigated, and viability established. There is no evidence that any underground pipelines which may be present will adversely affect the prospects of development. Although the sale of the site to a housebuilder earlier this year appears to have faltered because of the Covid-19 situation, this does not seem to me to mean that a sale cannot be expected to take place at some stage.
47. But nevertheless, as of now, no house-building developer appears to be involved, and there is no evidence of any progress towards any reserved matters applications. There is therefore nothing at present that points towards completions beginning within five years. As such, the site cannot be counted as deliverable. This results in a deduction of 150 units from the Council's supply.



*Land at Berechurch Hall Road*

48. The site at Berechurch Hall Road is a greenfield site, outside the settlement boundary, and therefore contrary to the adopted development plan. It has no planning permission. A current application is awaiting determination, but is subject to objections. The land forms part of a proposed allocation in the emerging draft local plan, but at present that draft plan carries limited weight. The principle of development has therefore not yet been established.
49. In addition it appears that, for highway reasons, any direct access to the site is likely to be allowed on a temporary basis only, and in the longer term provision will be required for access via the adjoining land, in separate ownership. It is clear that no agreement for any such access has been entered into. On this point, I note that the Council's evidence is contradicted by the letter produced from the agent acting for the intending developer.
50. In the circumstances, the site in question cannot at present be regarded as deliverable. This results in the loss of a further 32 units from the 5-year supply.

*Effects of the Covid-19 pandemic*

51. It is difficult to disagree that, across the country as a whole, the Covid-19 pandemic has probably had an adverse impact on the capacity of the planning system over the last few months. The need for officers to work from home has meant fewer opportunities to carry out site visits and other essential tasks, and has reduced access to information and advice. Committee meetings have had to be held remotely. Contentious decisions, especially, have become more difficult to conclude. As a result, it does seem likely that in many areas the overall effect will have been to slow down the decision-making process, with a consequent lengthening the timescales for developments, at all stages of the planning process.
52. However, it must also be recognised that when the overall picture is presented in this way, that picture is at present based mainly on generalised impressions and anecdotal evidence. At local level, it seems to me that the pattern of responses in different areas is likely to have been more varied. In Colchester, it is clear from the evidence before me that, despite the difficulties, continued progress has been made on a number of the major housing sites, and also on the emerging draft LP and TNP. As things stand therefore, the evidence available does not justify making any allowance or adjustment to the 5-year supply on account of the effects on the planning process.
53. I fully acknowledge that the pandemic's effects go beyond just planning. During the lockdown period, construction on most sites came to a halt, and even for those that were able to keep going, supplies of materials became more scarce, and productivity was reduced by social distancing. Even now that the lockdown has been relaxed, some of these effects may linger, and the capacity of the building industry may continue to be affected into the future. Similarly, the house sales market was brought to a standstill for several weeks. Even now that the restrictions have been removed, the backlog of stalled transactions could slow down the process of buying and selling for some time. And in the wider economy, there are well-publicised fears that job losses could result in falling property values and a depressed market. Put simply, fewer buyers might mean fewer houses built, and more housing needs unmet.

54. But the 5-year supply is concerned only with the number of deliverable sites, and that figure is entirely separate from the number of houses actually built and occupied. Clearly it is right that the underlying purpose of the exercise is to boost housing supply. But the provisions in the NPPF that trigger the tilted balance, and with it the presumption in favour of sustainable development, relate only to the number of sites and their deliverability. Forecasts of the pandemic's effects on actual housing delivery are not directly relevant to this exercise.
55. I have taken account of the decision in the appeal relating to land at Finchampstead, Berkshire<sup>6</sup>. However, for the reasons explained above, I do not consider in this case that any adjustment should be made to the 5-year supply figures in response to the Covid-19 pandemic situation.

Effects of the draft Local Plan Inspector's interim findings

56. The Examining Inspector, in his letter of 15 May 2020, advised that Part 1 of the draft replacement LP could not be found sound in its current form. The Council has subsequently chosen to accept the deletion of the proposed Colchester/Braintree Borders 'Garden Community', with the consequent need for consultation on main modifications. As a result, the timescales for progressing both Parts 1 and 2 of the draft LP will now be lengthened.
57. However, although the Garden Community was expected to make a major contribution to the Borough's medium and longer term housing needs, it was not relied on for any completions within the next five years, and therefore its loss does not affect the land supply position for the present appeal. None of the other disputed sites discussed above are dependent on the adoption of the new plan for their deliverability. The Inspector's letter also reconfirms his earlier finding that the draft Plan's overall housing requirement figure is acceptable.
58. It therefore follows that, for the purposes of this appeal, the land supply calculation is unaffected by the latest position reached on the draft LP.

Conclusions on housing land supply

59. As set out above, the 5-year housing requirement is 5,659 dwellings. From the Council's claimed supply of 6,108 dwellings, for the reasons given above, I deduct 50 units at the Fiveways site, 50 units at the Rugby Club site, 150 at Halstead Road, 32 at Berechurch Hall Road, and 1 unit at the Magdalen Street site. I also add 8 units at the Garrison K1 site. These adjustments result in a 5-year supply of 5,833 dwellings, or a surplus of 174 units. This would equate to 5.15 years' worth of deliverable land.
60. On this basis, even if the extended lead times at Fiveways Farm and the Rugby Club sites were increased from 6 months to a year, the supply would still exceed 5 years. To my mind, this indicates a degree of robustness in the above position.
61. The surplus of supply over the 5-year requirement is small. But nevertheless, on the evidence available, I am satisfied that a 5-year supply has been demonstrated. It follows that no planning policies relevant to the appeal should be considered out of date by virtue of the housing supply position.

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<sup>6</sup> APP/X0360/W/19/3238048

## **Issue (ii): Relationship to adopted policies for location of housing**

### *Policy ENV1 and the settlement boundary*

62. The settlement boundary around Tiptree is defined on the Tiptree Inset of the Proposals Map. The appeal site lies outside the defined boundary, and therefore, for policy purposes, forms part of the countryside.
63. Policy ENV1 of the CS is an environmental policy which seeks to conserve and enhance the Borough's natural and historic environment, countryside and coastline. Amongst other things, the policy states that unallocated greenfield land outside settlement boundaries will be protected, and that development within such areas is to be strictly controlled. It is not disputed that these provisions in Policy ENV1 amount to an in-principle objection to development in the countryside. This in-principle element is separate from, and in addition to, any detailed consideration of a development's actual impacts on the landscape, visual amenity, or other aspects of the environment. Consequently, as agreed in the Statement of Common Ground, the appeal proposal conflicts with Policy ENV1 in with regard to its location in the countryside.
64. In the Barbrook Lane case, and also in some other recent appeal decisions<sup>7</sup>, the SoS and inspectors have commented that Policy ENV1 goes beyond what is required by the NPPF. However, those appeals were determined in a context where the Borough did not have a 5-year supply of housing land. That is now no longer the case. It remains true that the NPPF does not specifically state that development in the countryside should be subject to strict control, but neither does it forbid such a policy. In the present context, where an adequate land supply has been demonstrated, I see nothing incompatible about this element of Policy ENV1. What the NPPF does require for the countryside is the recognition of its intrinsic character and beauty. There is no suggestion that Policy ENV1 fails to reflect this approach.
65. I appreciate that Policy ENV1 is now of some age, and was formulated under earlier Government policies. But these considerations alone do not make the policy out of date, provided that its content remains relevant and broadly consistent. It may also be true that, in order to achieve a 5-year supply, the Council has had to allow Policy ENV1 to be outweighed in some particular cases. But that does not imply that the policy has been abandoned, nor does it prevent it from carrying weight in other decisions. Indeed, for the reasons already explored, the policy is still clearly needed, to ensure that the role of the countryside continues to be recognised. In the circumstances of the present appeal, I find no reason to give Policy ENV1 anything less than the full weight that is due to it as part of the adopted development plan.
66. Similar considerations also apply to the Tiptree settlement boundary. The present boundaries throughout the Borough were drawn to accommodate expected requirements up to 2023. In the event, in the light of rising needs, it has been necessary for some breaches of those boundaries to be permitted. But having now made adequate provision for housing for the next five years, the need is no longer so pressing. At Tiptree, the boundary is already under review, in both the emerging draft LP and the draft TNP. The new boundary is

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<sup>7</sup> Including Bakers Lane, Braiswick (APP/A1530/W/17/3178656), and Colchester Road, West Bergholt (APP/A1530/ W/18/3207626)

yet to be finalised, and there is scope for further adjustments to be made , if necessary, through the plan-led system. In the meantime, in the absence of an immediate need, I see no reason why the existing, adopted settlement boundary should not continue to carry full weight.

Other policies

67. In the evidence before me it is also argued that the site's location gives rise to in-principle conflicts with three further policies, Policies SD1, H1 of the CS, and Policy DP1 of the DPD. In the case of these particular policies, I disagree.
68. Policy SD1 is primarily strategic in nature. The policy requires development to be located at the most accessible and sustainable locations, in accordance with the settlement hierarchy. Tiptree is identified within the second tier of that hierarchy. The policy makes no reference to settlement boundaries. To my mind therefore, the appeal site would accord with this general strategy. The policy goes on to express some secondary aims, in relation to sustaining vitality and local character, but these are clearly subsidiary. To my mind, if there were a proven need for more housing sites, then the appeal scheme's general accordance with SD1 would count in its favour. But in the absence of such a need, this accordance carries little or no weight. The figures given in Policy SD1 for the overall quantity of housing are agreed to be out-of-date, but since the introduction of the Standard Method, these figures are no longer relevant. Consequently, in the circumstances of this particular case, Policy SD1 as a whole is neutral.
69. For the most part, Policy H1 repeats the contents of Policy SD1 regarding the quantity and general locations for housing. Similar considerations therefore apply to these elements. Policy H1 then goes on to give a more detailed housing distribution, by settlement, as set out in Table H1a, including 680 for Tiptree. But since this is based on an overall total which is now out-of-date, the figures for the individual settlements carry reduced weight. And in any event, these are stated to be minima. Again the policy makes no reference to settlement boundaries. Consequently, as before, if a need for additional housing sites had been demonstrated through the 5-year supply, it seems to me that Policy H1 would weigh in favour. But again, in the absence of such a need, the policy's effect is neutral.
70. Policy DP 1 is in my view purely a design policy. Although the policy includes a requirement to respect or enhance the landscape, when this is read in the context of the policy as a whole, it is clear that this is intended as one of a series of criteria relating to matters of detailed design and layout. If permission were granted, there seems no reason why this requirement, or any others within the policy, could not be satisfied at the reserved matters stage.
71. None of these additional policies therefore adds anything further to the conflict already established in relation to Policy ENV1.

Conclusion with regard to housing location policies

72. The appeal proposal would involve an in-principle conflict with the provisions of CS Policy ENV1 relating to development in the countryside.
73. The location does not give rise to any in-principle conflict with any other adopted policies, including SD1, H1 or DP1. But equally, given the availability

of a 5-year land supply, and thus the lack of a proven housing need, none of those other policies lends any support to the appeal scheme. It follows that the conflict with Policy ENV1 alone is sufficient to establish that the appeal scheme is contrary to the locational strategy of the development plan.

74. In the present case there is no compelling evidence that Policy ENV1 is inconsistent with the NPPF, nor that it should be treated as out of date for any other reason. In these circumstances, ENV1 carries the full weight of the adopted development plan.

### **Issue (iii): Relationship to the emerging draft plans**

#### *The draft replacement Local Plan*

##### *Accordance or conflict with the draft LP*

75. For the reasons given earlier in this decision, the policies and content of the draft LP currently carry limited weight. Nevertheless, Policy SG2 sets out a housing distribution for the plan period 2017-33. For Tiptree the proposed figure is 600 dwellings, all of which are to be found through new allocations. Draft Policy SS14 identifies three 'broad areas of growth', depicted by arrows on a plan. One of these arrows crosses the northern part of the appeal site, just to the north of Peakes Close. Within the three areas of growth, the draft policy requires that the settlement boundary is to be redefined, and land allocated for 600 dwellings, and that these details are to be determined through the Neighbourhood Plan.
76. From the wording of draft Policy SS14, it is clear that what is intended is that the Tiptree settlement boundary will be redefined in all three broad areas of growth, and that development will take place in each of them. Although the arrows are only indicative, there is little doubt that the development envisaged in the most southerly of these would include at least part of the present appeal site. Nothing in Policy SS14 or elsewhere the draft LP would appear to prevent the re-drawn boundary from including the whole of the appeal site. Out of the 600 dwellings earmarked for Tiptree through draft Policy SG2, 200 have since been taken up by the Barbrook Lane permission, but as yet no other major sites are formally committed. The 255 dwellings proposed in the appeal scheme could therefore be accommodated within the balance of Tiptree's allocation, without disturbing the overall distribution. In all these respects, the appeal scheme would involve no direct conflict with the emerging draft LP.
77. This is not to say that the appeal scheme should be seen as the inevitable outcome of the draft LP's proposals for this part of Tiptree. Policy SS14 leaves a number of matters to be determined in the TNP, including the extent of development and the number of dwellings in each of the identified broad areas. But accordance with the neighbourhood plan is a separate matter. The appeal scheme seems to me to represent one possible way of fulfilling Policy SS14, and to that extent the draft LP weighs in favour, albeit that the weight is limited.

##### *Prematurity in relation to the draft LP*

78. Having regard to paragraph 49 of the NPPF, although the appeal proposal would be quite sizeable, the 255 proposed dwellings would equate to only a little over 3 per cent of the 7,853 dwellings that the draft LP currently

proposes in new allocations, or about 1.7% of the plan's overall total of 15,063 dwellings. In relation to the draft plan as a whole therefore, the appeal proposal is not particularly significant. Moreover, the Council has confirmed that granting permission for the appeal scheme would not result in a need for any consequential changes to the draft LP. Any consequential impact on the TNP is not relevant to the draft LP. I see no basis on which the development now proposed could, in the words of paragraph 49, undermine the draft LP, or predetermine any decisions that are central to it.

79. Furthermore, although the draft LP has reached the examination stage, it also still has some way to go, and indeed rather more potential hurdles in its way than would usually be the case at this stage. This is because of the two-stage examination process, with Parts 1 and 2 of the plan being examined in sequence, and also because the need for significant modifications to Part 1 could yet have a knock-on effect on the content of Part 2. I appreciate that the Council hopes to avoid that scenario, but to my mind it is one that cannot yet be ruled out. In the circumstances, I do not consider that the draft LP can be regarded as 'well advanced'.
80. Applying the NPPF tests, therefore, the appeal proposal would not be premature in relation to the draft LP.

### *The draft Neighbourhood Plan*

#### *Accordance or conflict with the draft TNP*

81. The draft TNP proposes to realign some sections of the Tiptree settlement boundary to the north and north-west of the town, and proposes three housing allocations in these areas, totalling 625 dwellings. At the appeal site no boundary changes or housing development are proposed. With regard to the countryside outside the settlement boundary, draft Policy TIP01 restricts development to various defined categories, none of which are relevant to the present case.
82. The appeal scheme would therefore conflict with TNP Policy TIP01, based on the settlement boundary as currently proposed. As with the draft LP, for the reasons given elsewhere in this decision, the policies of the draft neighbourhood plan currently carry limited weight. Accordingly this conflict with Policy TIP01 also carries limited weight.

#### *Prematurity in relation to the TNP*

83. Although the draft TNP has progressed to the Regulation 16 stage, it too, like the draft LP, still has some significant hurdles to face. As at the date when the present appeal inquiry closed, the public consultation period for the TNP was still in progress. The appellants in the present appeal have confirmed their intention to make an objection. This, and any other objections, are yet to be considered at the plan's Examination.
84. Amongst the other matters to be considered at the Examination will be the TNP's conformity with the development plan. Whilst it is not my intention to speculate on the outcome, it is difficult to ignore the fact that in this case the development plan context has become somewhat more complicated than it might have appeared when the TNP was being prepared. This is potentially significant, because the draft TNP is clearly predicated on the housing and spatial policies of the emerging draft LP, but now the future content of that

plan has become more uncertain than it may have seemed earlier. In relation to the adopted CS, it is not disputed that the TNP conflicts in terms of both housing numbers and their location, so the matter of conformity with the draft LP is likely to be particularly important. Taking into account the evolving nature of this development plan context, I consider that the TNP cannot yet be considered 'well advanced'.

85. In relation to the scale of the housing proposals in the draft TNP, the appeal proposal would equate to about 40 per cent of the plan's total provision. In this context therefore, the appeal proposal would be significant. Although the Council has again indicated that, in their view, permission could be granted for the appeal scheme without forcing any changes to the draft plan, this would be primarily a matter for the Qualifying Body.
86. From the representations before me, there appears to be quite a lot of local support for the other sites allocated in the TNP, not least because these are perceived as being capable of enabling a northern relief road. But there is also evidently a good deal of local concern about cumulative impact, including on local health and education services. It is not yet known whether granting permission for the appeal site would be likely to result in changes to the draft TNP. The appeal proposal therefore does have the potential, due to its size, to undermine or predetermine some of the decisions that would be central to the TNP. However, having regard to NPPF paragraph 49, this alone does not justify a refusal.
87. Consequently, having found the TNP not to be well-advanced, a refusal of permission for the appeal scheme, on the grounds of prematurity in relation to the neighbourhood plan, is not supportable.

#### Conclusion on prematurity

88. I conclude that the case for refusal on grounds of prematurity has not been justified, in relation to either the emerging draft LP or the draft TNP.

### **Issue (iv): Effects on the area's character and appearance**

#### Relevant landscape and townscape policies

89. As well as controlling development in the countryside in principle, CS Policy ENV1 also requires development in rural locations to protect, conserve or enhance the character of the landscape and townscape, including maintaining the separation between settlements. For the reasons already stated, I give Policy ENV1 as a whole full weight.
90. The NPPF, at paragraph 127, seeks amongst other things to ensure that development is sympathetic to local character and history, having regard to its landscape setting, and establishes or maintains a strong sense of place.

#### Landscape quality and impact

91. I have given careful consideration to the landscape and townscape evidence produced on both sides, and have made my own observations on my site visit. The appeal site comprises flat or gently sloping arable land, surrounded by hedgerows containing some larger trees. Other than this boundary vegetation, the site is featureless. Visually, the site's character is pleasant and open, but not particularly interesting. The site itself therefore offers little by way of any intrinsic landscape character or quality.

92. Having regard to the Colchester Landscape Character Assessment, the appeal site does reflect some of the key characteristics of the Tiptree Wooded Farmland, but these characteristics are by their nature commonplace. In some respects the site could be said to be representative of its type, but this alone does not give it significant interest or value. The footpaths appear quite well-used for informal leisure purposes, but none is part of any designated longer route. None of these attributes elevates the site above the status of 'ordinary' countryside, pleasant but unremarkable.
93. Public views of the site are seen from Maldon Road, and from the three public footpaths that either skirt or cross the site. All of these views from are close-range only. Partial, filtered views are obtainable at medium-range from some points on the elevated section of Footpath 21, in the vicinity of the Inworth Grange Pits, with the existing town in the background. There are no significant longer views, either inward or outward. In these respects therefore, the site's contribution to the wider landscape is limited.

### Coalescence

94. Notwithstanding the above, the appeal site also lies partly within the gap between Tiptree itself and Tiptree Heath. There is no doubt that in some respects this gap might be seen as a tenuous one. On the south side of Maldon Road, built development is almost continuous, with only a short undeveloped section, extending for just a few metres, at the junction with Hall Road. On the north side, there is a large open field to the rear of the Ship public house and Heathway Cottage, but this is largely screened from the road. The corner of this field meets the road between Heathway Cottage and Shrublands, but the gap between these two properties is negligible.
95. This leaves the southern part of the appeal site as the only significant length of open frontage between Tiptree and Tiptree Heath, on either side of Maldon Road. Seen on the ground, this amounts to a far smaller separation than that suggested by the boundaries shown on the Proposals Map. But to my mind this only increases the gap's sensitivity. The appeal site frontage does not correspond with the 'Distinctive Gateway' identified in the 2006 Townscape Character Assessment report, but that does not alter the facts that I observed on my visit. In my view, the fragility of the settlement gap that remains is self-evident, and serves to highlight the importance of the appeal site in this context.
96. I appreciate that in policy terms, in the adopted CS, Tiptree Heath is treated as a detached part of Tiptree, rather than as a separate village in its own right. There is also a lack of any separate road signage. But on the other hand, the fact that Tiptree Heath is named on the Ordnance Survey map suggests a historical role as a distinct entity. And it is clear from the letters from many local residents that there is a strong sense of local identity associated with Tiptree Heath as such. Although the emerging draft LP and TNP propose to abandon the current detached settlement boundary, this does not change the fact that what exists on the ground is essentially a small rural settlement, which has partly coalesced with Tiptree, but still retains its own distinctive identity and sense of place.
97. For the reasons already explained, I do not consider that the draft LP's proposal for a Broad Area of Growth in this vicinity should be interpreted as



welcoming further coalescence in this area. There seems no reason why some development could not take place within that Broad Area whilst still maintaining a recognisable gap between settlements.

98. Having regard to the provisions identified above in Policy ENV1 and NPPF paragraph 127, it seems to me that it is clearly desirable that the separate character and setting of Tiptree Heath should be respected, and its sense of place maintained.

*Impact of the appeal proposal*

99. If the appeal site were developed as now proposed, by far the major part of the existing gap between Tiptree and Tiptree Heath would be lost. The Development Framework Plan shows how an area of open green space could be located in the site's south-western corner, with housing set back behind. But as currently shown, this open space would be quite small relative to the area of new housing that would be in view, and the space would also be fragmented by the proposed main access and school car park. In my view this would not significantly mitigate the impression of development filling the whole of the appeal site frontage.
100. Furthermore, in this light, the suggested remedy of providing a wider landscaping buffer on the site's western boundary would appear somewhat tokenistic. In my view, this would not ameliorate the impression of continuous development. I appreciate that the Framework plan is illustrative, but even so, there is nothing in the submitted evidence to suggest that 255 dwellings could be accommodated on the site, whilst also preserving any meaningful separation between the two settlements.
101. Eliminating the majority of the gap between Tiptree and Tiptree Heath in the way now proposed would greatly weaken the perception of Tiptree Heath as a small rural settlement with its own identity and character. It would also detract from the physical landscape setting of both settlements.
102. Development on the southern part of the site would partially mask the 'harsh urban edge' at Peakes Close, as also identified in the Townscape Character report. But in my view this minor benefit would be far outweighed by the landscape and townscape harm that I have identified.

*Conclusion regarding impact on character and appearance*

103. The appeal site's landscape quality is no more than average, and its role in the wider landscape is negligible. However, the effective closing of the gap between Tiptree and Tiptree Heath would be highly damaging to the setting of both, and to the rural character and identity of Tiptree Heath in particular. This harm would be contrary to NPPF paragraph 127, and would add to the conflict with Policy ENV1.

**Issue (v): Effects on mineral resources**

*Relevant minerals policies*

104. In the adopted MLP, the appeal site is not designated as either a preferred site or a reserve site for mineral extraction, but is included in a Minerals Safeguarding Area (MSA). In such areas, MLP Policy S8 seeks to safeguard

significant economic resources, of national and local importance<sup>8</sup>, from sterilisation by surface development. Proposals for sites exceeding 5ha (in the case of sand and gravel) are to be supported by a Minerals Resource Assessment (MRA), to establish whether the mineral resource is of economic importance. Where surface development is to be permitted, consideration should be given to prior extraction of the minerals present.

105. In the NPPF, paragraph 203 notes the importance of making best use of minerals, to secure their long-term conservation, and paragraph 205 requires the benefits of mineral extraction to be given great weight. Paragraph 204 supports the safeguarding of resources of local and national importance, but makes it clear that there is no presumption that such resources must be worked. The same paragraph also supports prior extraction, where this is practical and environmentally feasible. Within safeguarded areas, paragraph 206 states that other development should not normally be permitted if this would constrain any future mineral working.

### *Economic importance of the appeal site minerals*

#### *Countywide supply and demand*

106. Across Essex as a whole, the EMP seeks to provide for a supply of up to 4.31 million tonnes of sand and gravel per annum (mtpa), over the plan period to 2029. This target is intended to address not only the county's own needs, but also continuing exports to London and other adjoining areas.
107. Against this target figure, the landbank of permitted sand and gravel sites, as measured by the Minerals Authority, is said to be currently in the region of 8.15 years' worth, plus one further large application pending, which is expected to boost this to over 9 years. If all other designated Preferred and Reserve sites are taken into account, on the Authority's own figures, the available supply of increases to 12.27 years. Based on the EMP target of 4.31 mtpa, this equates to over 52 million tonnes of aggregates which are expected to become available, without needing any further allocations or windfall sites.
108. Comparing the EMP target rate with the volume of actual demand, on the Mineral Authority's evidence, the average sales of sand and gravel in the county over the last 10 years has been 3.13 mtpa. At this slightly lower rate, the landbank of permitted sites would last 11.2 years, and with the Preferred and Reserve sites added, this would become nearly 17 years.
109. Although this landbank includes both permitted and designated sites, it does not include the MSAs. When these are taken into account, it is agreed that the county's sand and gravel deposits amount to around 110,000 hectares. On the appellants' evidence, the overall volume of aggregates within these safeguarded sites is estimated at 9.2 billion tonnes. I appreciate that this figure is necessarily a broad-brush one, being based on geological mapping with limited sampling, and it does not necessarily take account of all recent developments. There is also no certainty that all of the mineral resources within the MSAs are necessarily workable. But in terms of the broad order of magnitude, I see no reason to doubt that the overall tonnage of sand and gravel within the MSAs is likely to run into the billions.

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<sup>8</sup> Defined in the NPPF Glossary as "*Minerals which are necessary to meet society's needs, including aggregates...*"

110. In general terms, I accept that the rate of housing and other development is likely to need to increase, if delivery is to match current development plan expectations and longer term needs. But the target rate of 4.31 mtpa in the existing EMP already allows for an increase of up to about 37% over the current annual demand of 3.13 mtpa. I appreciate that the 10-year period on which the average sales figure is based would have included the aftermath of the 2008 recession. But it must also have included much of the relatively buoyant period that followed later in the 2010s. Realistically, any 10-year period, past or future, is likely to include both peaks and troughs.
111. In addition, the EMP also seeks in the future to boost the role of other alternatives, such as marine-won, secondary or recycled aggregates, and substitute materials. Any increase in these sources would be over and above the quoted landbank, and would reduce reliance on land-won minerals.
112. It is not disputed by any party that Essex is a county where sand and gravel are found in relative abundance. None of the evidence before me suggests a need for any major increase in the current rate of production in the foreseeable future.

*Quantity of mineral at the appeal site*

113. Although the appeal site is over 10 ha in total, its maximum potentially workable area is considerably less than this, because of the proximity of existing residential properties in Maldon Road and Peakes Close. In these circumstances, EMP paragraph 5.20 recommends a buffer zone of 100m in width. To my mind, this standard requirement seems the most logical starting point for considering the present site, having regard to the potential issues of land stability, as well as other environmental impacts. I also note that a buffer of this width was included in the scoping discussions held in early 2020.
114. I accept that there may have been cases elsewhere in Essex where narrower buffer zones have been accepted, but these would appear to have been exceptions, based on site-specific considerations. For the purposes of the present appeal, it would not be appropriate to assume that a similar exception would be acceptable here. In the light of all the evidence, I see no basis at this stage for assuming a buffer of anything less than 100m. Given the configuration of the adjoining development, a buffer zone of this width, as shown in the appellants' evidence, effectively rules out any mineral extraction over almost half of the site.
115. On this basis, the volume of workable sand and gravel at the site, net of overburden and interburden, is now calculated by the appellants<sup>9</sup> as 151,132 cu m, and the resulting saleable (or useable) quantity, after removing fines, is calculated as 216,201 tonnes. These figures are lower than the ones used in some of the appellants' earlier submissions, which suggested a saleable resource of either 303,000 or 350,169 tonnes. The differences between these figures have been explained, and I see no reason to doubt the accuracy of the most recent evidence. But nevertheless, a good deal of the evidence from both sides is based on the earlier

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<sup>9</sup> Mr Anchor's first rebuttal proof, para 4.3

assessments. I also note the alternative calculations put forward by the Council's witness, leading to a figure of 294,000 tonnes. For the sake of robustness, I have assumed that the workable volume is likely to be somewhere between 216,000 tonnes and 350,000 tonnes.

116. Looked at in isolation, this available tonnage of mineral at the appeal site is not insubstantial. But viewed in the context of the many millions of tons in the already permitted and designated sites, or the billions of tonnes in the MSAs as a whole, the quantities take on a somewhat different perspective. Even if only the permissions landbank of 8.15 years is taken into account, the contribution that the appeal site could add, even at the upper-end figure of 350,000 tonnes, would be less than one per cent. On any other basis, the percentage contribution would be still lower.
117. I acknowledge that the overall supply of minerals is finite, and an abundance does not preclude the need for good husbandry. The NPPF is clear as to the weight to be given to their conservation. But it does not follow from this that each and every site will be of equal importance, regardless of the quantity involved. In the particular circumstances of Essex, Policy S8 makes it clear that the smallest sites, below 5ha, are not to be regarded as economically significant, and that above this threshold, economic significance is to be judged on a site-by-site basis, through the site-specific MRA; indeed, this is the very reason why an MRA is required.
118. In the present case, although the appeal site as a whole clearly exceeds the 5ha threshold, its workable area appears to do so only marginally. In the context of Essex's abundant supply of sand and gravel, the size of the existing landbank, and the current rate of demand, the quantity of potentially workable aggregate indicated by the MRA does not appear to be of any great economic significance.

#### *Viability of extraction*

119. On the appellants' financial modelling, a stand-alone mineral operation at the appeal site, with on-site processing ('Scenario 1'), followed by backfilling with ordinary inert material suitable for restoration to agricultural use, would make a loss of around £2.7m or thereabouts. If the site were worked as a satellite operation, with processing mainly off-site ('Scenario 2'), the loss could be reduced significantly, but would still be over £1m.
120. These figures are challenged mainly only on the basis that the quantity of mineral could be increased by reducing the buffer. However, for the reasons already given, I do not consider that this is a matter that can properly be pursued through the present appeal. In any event, there is no clear evidence as to how this would turn a loss into a profit. Other than this, the Council's case against Scenarios 1 and 2 relies heavily on reported conversations with an unnamed local operator who is said to have expressed interest in working the site. But this amounts only to hearsay. Without any direct evidence from the operator in question, these submissions carry no weight.
121. The appellants' viability appraisal is sufficiently detailed to show that the exercise has been tackled with a reasonable degree of thoroughness. There is little by way of sensitivity analysis, but given the scale of the projected losses, it seems unlikely that any minor 'tweaks' to the assumptions would

greatly change the outcome. And in any event, most of the assumptions are substantially unchallenged. Based on the evidence before me, I see no reason to doubt that the viability picture presented by the appellants is broadly accurate, and therefore that mineral extraction at the appeal site, as a stand-alone operation, is unlikely to be a worthwhile proposition. It follows that, in the absence of any other associated development, such as the housing now proposed, there is little realistic prospect that the minerals on the site would ever be worked.

122. This situation is therefore similar in effect to that in the appeal relating to land at Silver End, Braintree<sup>10</sup>, where the Inspector concluded that the proposed development was unlikely to constrain the future use of the site for mineral extraction, because extraction was unlikely to ever happen anyway. I consider that the same logic is applicable to the present appeal.
123. I have given careful consideration to the Council's view that the viability of mineral extraction at the site should be looked at not only as a stand-alone operation, but also in the context of the overall development, including the proposed housing. I accept that this approach might be relevant to assessing the possibilities for prior extraction. But, in the context of Policy S8, that seems to me to be a separate exercise from the question of whether the particular mineral resource is of economic importance. To my mind, the latter question is one that requires to be judged on its own merits. Given that the EMP is an adopted, locally based plan, which post-dates the 2012 NPPF, I see no reason to depart from this approach.
124. The lack of any evidence that mineral extraction would be a viable option reinforces my view that the resources at the appeal site cannot be regarded as economically significant.

#### *Prior extraction*

125. Notwithstanding the above, I have given consideration to the evidence on both sides regarding prior extraction. There is no disagreement that the principal test in this respect is whether prior extraction would be practical or environmentally feasible.
126. From the evidence, the technical issues raised by prior extraction appear to be as follows. The appeal site lies within an area where the water table is relatively close to the surface. The sand and gravel deposits present extend well below that level. Therefore, for housing development to take place, the excavated area would have to be backfilled to create a new, stable development platform, at or close to the original ground levels. Dewatering would be needed, not just during the mineral extraction phase, but also during backfilling and compaction. The new development platform would have to meet specialised engineering requirements, as to the nature of the fill material and the method of compaction, in order to provide adequate load-bearing capacity and long-term protection against either collapse or heave, following groundwater recharge. Ground monitoring would need to be carried out for a period of years after this before any development could begin. Piled foundations would be likely, possibly up to a depth of 20m. The surface water drainage system would need to be specially designed, to allow for the lower infiltration and attenuation of the compacted backfill.

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<sup>10</sup> APP/Z1510

127. It is not disputed that these required measures are technically feasible. On the appellants' evidence, they would add in total around £9.4m of costs to the overall development, but this would be partly offset by the expected revenue of £2m from the prior-extracted mineral, thus reducing the net additional costs to £7.4m ('Scenario 3'). The proposed residential development would be expected to generate substantial capital receipts, through the developer's profit on house sales and the enhanced land value that would be realised by the landowner. When these are taken into account, there is no evidence that the extra costs of extracting the site's minerals could not be borne by the development as a whole.
128. In principle, I accept that this approach, advocated by the Minerals Authority, is not without merit. I have no doubt that there will be some cases where the costs of prior extraction are not seen as prohibitive. In such cases, even though the minerals involved may not be of national or local importance, it may well suit the interests of all parties to treat prior extraction as a planning benefit, securing the recovery of smaller pockets of minerals that would otherwise remain in the ground.
129. However, the present appeal site does not seem to me to fall within that category. The £9.4m of additional costs that would be incurred on prior extraction would not represent simply a reduced profit for the developer and landowner; it would also represent the opportunity cost of the goods, materials and services which would need to be utilised in that cause. Amongst other things, these would include high-quality, high-value engineering fill material, which otherwise would be in high demand for other specialised uses. They would also include the materials, equipment and expertise needed for piled foundations and non-standard drainage systems. And they would include the holding costs of the sunk capital tied up in the project for several years, while backfilling, engineering works and ground monitoring took place. To my mind, expending goods, materials and services in this way, worth in excess of £9m, in order to extract minerals with an economic value of only around £2m, would not only be grossly disproportionate, it would also be wasteful and unsustainable.
130. In the light of this conclusion, it is not necessary for me to go on to consider in detail the environmental issues that prior extraction would raise. Suffice to say, those issues would in my view be substantial. In particular, this is because of the relationship of the site to the existing houses in Peakes Close. If mineral extraction were required, those properties would be left isolated on a narrow spur of land at existing ground level, surrounded on three sides by deep excavations. That would clearly be an unacceptable situation. It is difficult to see how the impact of prior extraction on these properties could be justified.
131. Having regard to the evidence before me, it is evident that in this case prior extraction is neither practical nor environmentally feasible.

*Conclusions as to the effects on minerals*

132. For the reasons set out above, I conclude that the sand and gravel resources at the site are not economically significant, due to their relatively small size and value. In addition, mineral extraction would be unlikely to be viable as a stand-alone operation, and therefore the development now proposed would not have the effect of sterilising any mineral resources.

133. Prior extraction would not appear to be either practical or environmentally feasible, and in this case any requirement to that effect would not be justified in any event.
134. In all these respects, no conflict would arise with either EMP Policy S8 or the relevant provisions of the NPPF.

### **Other matters**

#### *Benefits of the development*

135. The scheme would provide up to 77 dwellings, 30% of the total, as affordable housing, secured through the S.106 undertaking. This level of provision, matching the requirement proposed in the emerging draft LP, would exceed the existing policy requirement in Policy H4 of the adopted CS. As such, it would be a significant benefit. The provision of the remaining 178 units of market-priced housing would also be of some benefit, in terms of widening choice, but since a 5-year supply has been demonstrated, this carries considerably less weight.
136. The development would be likely to create over 150 full-time equivalent jobs during the construction period. Although these would not be permanent, they could potentially last for over 2 years. Household expenditure of around £4m p.a. would be generated, much of which would be likely to be spent locally. The local economy would also benefit from New Homes Bonus and Council Tax receipts. Together, these economic benefits would be significant. None would be unique to the present proposals, but that does not make them any less valuable.
137. The scheme would provide nearly 3ha of on-site open space, including a play area and links to the existing rural public footpath network. The undertaking ensures that the open space would be available to the public, and provides for its long term management. In my view the location is reasonably accessible, and these facilities would therefore represent a significant benefit, carrying moderate weight.
138. Through the suggested conditions, the scheme would deliver various minor transport-related measures, including improvements to the Station Road junction, pedestrian refuges at that junction and at the site entrance, a cycleway alongside Maldon Road, and bus stop enhancements. These would have varying degrees of benefit for existing road users, but in most cases the main beneficiaries would be the residents of the development itself. Overall, there would be a modest public benefit from these items.
139. The potential for ecological enhancements, to be secured by condition, counts as a minor benefit, carrying limited weight.
140. The proposed drop-off car park for Tiptree Heath School could potentially be a substantial benefit. However, this facility is not included in the undertaking. As indicated to the parties previously, I do not consider that reliance on a condition alone would be satisfactory, because the need for the car park does not arise from the development now proposed. Such a condition would therefore fail the test of necessity. In addition, it is evident that little thought has been given to the arrangements that would be needed in terms of the long term ownership and management, to ensure that the facility served its intended purpose. This further reduces my confidence as

to whether the potential benefits would be fully realised. For these reasons, I give the proposed car park little weight.

141. Through the undertaking, the scheme reserves part of the site, for a period of up to 10 years, for a possible future roundabout at the main site entrance. The purpose of this is to allow the spine road through the development to serve as the first phase of a possible new link road, bypassing Tiptree on its western side. The possibility of such a road has apparently been considered in the past as one of a number of options for managing through traffic. However, the draft TNP currently gives preference to a different route, to the north of the town. The Highway Authority appears to have no current proposals and no firm view on the matter. To my mind there is no clear evidence, either as to whether a western link road is likely to be required, or what route it might take, or to what extent the appeal proposal would facilitate it. To the extent that it would leave all options open for the time being, albeit only for a finite period, the reservation of land for this purpose would be a minor benefit. But in view of the many uncertainties, this is a benefit that commands very limited weight.

Other obligations in the undertaking

142. In addition to the affordable housing, the on-site open space, and the land reservation referred to above, the undertaking also provides for various financial contributions. These are directed to purposes associated with education, healthcare, community facilities, archaeology, off-site open space and recreation, and protected habitats. In the light of the evidence presented, I accept that all of these are necessary, relevant, and reasonable in scale and kind. I have therefore taken them into account.
143. However, all of these contributions are directed primarily at mitigating the development's own impacts. They therefore carry only neutral weight in the planning balance.

Other matters raised by objectors

144. A great many of the grounds of objection raised by local residents and organisations relate to the main issues which have already been dealt with above. These need not be repeated here. But I have also considered all the other matters raised.
145. Amongst those which have not been covered elsewhere, I note in particular the objections raised with regard to traffic congestion, road safety (including school children), the capacity of local schools and health facilities, car parking, wildlife, air pollution, drainage and sewers, water pressure, and noise and dust during construction. Whilst I appreciate the sincere concerns behind all of these representations, in the light of the evidence available, I do not find any of these matters sufficiently clear-cut as to justify refusal of planning permission in their own right.
146. In view of the conclusions that I have reached on the main issues, it is not necessary or expedient within this decision to go into further detail on these other matters.



### **The overall planning balance**

147. For the reasons explained in this decision, the proposed development would conflict with CS Policy ENV1, due to its location in the countryside, and also due to its adverse impact on the local landscape and townscape in causing coalescence between Tiptree and Tiptree Heath. Having regard to the issues considered in this decision, Policy ENV1 is the most important policy in the appeal, and as a result of these conflicts, the proposed scheme fails to accord with the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004<sup>11</sup> requires that decisions are taken in accordance with the development plan, unless outweighed by other material considerations.
148. The benefits of the development are set out above. These include the provision of market and affordable housing, construction employment and increased local spending, on-site open space, highway improvements and minor ecological enhancements. These benefits all carry at least some weight, including significant weight to the affordable housing and economic benefits. But nevertheless, the presumption in S.38(6) favours the development plan. The benefits identified are all very much run-of-the-mill matters. Even when they are all added together, there is no basis for considering them to be of such weight as to outweigh that presumption.
149. The NPPF is also a relevant material consideration, and paragraph 11 allows for a 'tilted balance' in circumstances where the most important development plan policies are out of date. However, that is not the case here, because a 5-year housing supply has been demonstrated, and I have found Policy ENV1 to be generally consistent with relevant national policies. This finding is different from the Barbrook Lane decision, because the 5-year supply situation has changed. Consequently, the tilted balance does not apply. But even if it did, I consider that the harm to the area's character and appearance would significantly and demonstrably outweigh the benefits identified.
150. The Council's objections in relation to prematurity and conflict with the emerging local and neighbourhood plans, and in relation to mineral sterilisation, have not been substantiated, and these carry no weight in my decision. All other matters raised weigh neutrally. None of these changes the overall planning balance as set out above.

### **Conclusions**

151. Having regard to the above planning balance, the conflict with the development plan is not outweighed. The appeal must therefore fail.

*J Felgate*

INSPECTOR

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<sup>11</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004

## DOCUMENTS SUBMITTED DURING THE INQUIRY

### THE PLANNING INSPECTORATE

- PINS 1 Case management call Agenda and Preliminary Observations, 23 April 2020
- PINS 2 Post-conference Note and Directions, 4 May 2020
- PINS 3 Letter to Rt Hon Priti Patel MP, dated 20 May 2020
- PINS 4 PINS Screening Direction letter, 9 June 2020
- PINS 5 Inspector's Questions (1): planning policy, 11 June 2020
- PINS 6 Inspector's Questions (2): housing land supply, 11 June 2020
- PINS 7 Inspector's Questions (3): planning balance, 11 June 2020
- PINS 8 Inspector's Questions (4): landscape and visual impact, 11 June 2020
- PINS 9 Inspector's Questions (5): minerals, 15 June 2020
- PINS 10 Inspector's Questions (6): conditions, 16 June 2020
- PINS 11 Email dated 15 June 2020, re Inspector's Questions and site visit
- PINS 12 Email dated 16 June 2020, re the draft Undertaking
- PINS 13 Email dated 22 June 2020, re the draft Undertaking
- PINS 14 Email dated 25 June 2020, re draft condition 24
- PINS 15 Inspector's Further Questions, 2 July 2020
- PINS 16 Review of Progress and Proposed Further Programme, 2 July 2020
- PINS 17 Letter to Tiptree PC dated 21 July 2020, refusing request for recovery by SoS

### THE COUNCIL

- COU 1 Statement of Case, 15 April 2020
- COU 2 Bundle of supporting documents (with Statement of Case)
- COU 3 Position Statement (for case management conference call), 29 April 2020
- COU 4 Karen Syrett (Housing land supply) – Proof, with Appendices 1-6
- COU 5 Karen Syrett – Rebuttal proof
- COU 6 Catherine Bailey (Landscape and visual) - Proof
- COU 7 Catherine Bailey – Rebuttal proof
- COU 8 Susan Jackson (Obligations and planning balance) – proof, with Appendices 1-2
- COU 9 Susan Jackson – Summary proof
- COU 10 Sandra Scott (Planning policy) - Proof
- COU 11 Sandra Scott – Appendices 1-3
- COU 12 Sandra Scott – Summary proof
- COU 13 Sandra Scott – Rebuttal and Update, with Appendix 1
- COU 14 Philip Dash, ECC (Minerals) – Proof, plus MRA Review by Matthews & Sons
- COU 15 Philip Dash – Rebuttal proof, with Appendix 1
- COU 16 Philip Dash – Further rebuttal, plus 'Review and Response' by Matthews & Son
- COU 17 Response to Inspector's Questions Set 1 – S Scott
- COU 18 Response to Inspector's Questions Set 2 – K Syrett (with attachments)
- COU 19 Response to Inspector's Questions Set 3 – S Jackson
- COU 20 Response to Inspector's Questions Set 4 – C Bailey (with attachments)
- COU 21 Response to Inspector's Questions Set 5 – P Dash (with attachments)
- COU 22 Response to Inspector's Questions Set 6 – S Jackson
- COU 23 Email dated 23 June 2020 (with attachments from S Jackson and ECC), re UU
- COU 24 Email dated 29 June 2020, with ECC Highways response to Inspector's question
- COU 25 Replies to Inspector's Further Questions, 9 July 2020
- COU 26 Email dated 14 July 2020, agreeing to proceed to closing submissions
- COU 27 Email dated 20 July 2020: update on Local Plan
- COU 28 Email dated 21 July 2020: update on TNP and housing sites
- COU 29 Closing submissions, received 23 July 2020

## THE APPELLANTS

APP 1	Statement of Case (with Appendices 1-3), 28 February 2020
APP 2	Note for case management conference, 30 April 2020
APP 3	Geoff Armstrong (Planning policy and housing supply) – Proof
APP 4	Geoff Armstrong - Appendices 1-7
APP 5	Geoff Armstrong - Rebuttal proof
APP 6	Geoff Armstrong - Rebuttal Appendices GA1R – GA3R
APP 7	Richard Fox (Landscape and visual) – Proof
APP 8	Richard Fox - Appendices 1-4
APP 9	Richard Fox - Rebuttal proof, with Appendices 1-2
APP 10	David Anchor (Minerals) - Proof
APP 11	David Anchor – Appendices A-C
APP 12	David Anchor – Rebuttal proof, with Appendices A-D
APP 13	David Anchor – Further rebuttal, with Appendices A-C
APP 14	Response to Inspector’s Questions Sets 1, 2 & 3 – G Armstrong
APP 15	Response to Inspector’s Questions Set 4 – R Fox (with attachments)
APP 16	Response to Inspector’s Questions Set 5 – D Anchor
APP 17	Response to Inspector’s Questions Set 6
APP 18	Email 29 June 2020 re UU and condition 24
APP 19	Response to Inspector’s Further Questions, 9 July 2020
APP 20	Email dated 13 July 2020, agreeing to proceed to closing submissions
APP 21	Executed Unilateral Undertaking, dated 16 July 2020
APP 22	Closing submissions, received 24 July 2020

## OTHER INTERESTED PARTIES

### *The Rt Hon Priti Patel MP*

MP 1	Letter dated 13 May 2020 (with attached emails from T Stockford and T Bond)
MP 2	Letter dated 15 May 2020 (with attached email from M Garland)

### *Tiptree Parish Council and Neighbourhood Plan Steering Group*

TPC 1	Objection dated 11 April 2020, submitted by J Greenwood
TPC 2	Submission dated 29 April 2020, by L Mendham and Cllr C Bigg
TPC 3	Submission dated 19 May 2020 by J Greenwood (+ ‘Docs 1-3’ and attachments)
TPC 4	Submission dated 28 May 2020, from J Greenwood (+ ‘Doc 4’ Rebuttal)
TPC 5	Representation/query dated 26 May 2020, by J Greenwood (+ enclosure)
TPC 6	Further submission dated 1 June 2020, from J Greenwood
TPC 7	Recovery request, dated 15 July 2020, from R Williams

### *Other organisations*

ORG 1	CPRE Essex, letter from <u>D.Green</u> dated 30 May 2020
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### *Colchester Borough Council Members*

MEM 1	Cllr J Bunney, 14 May 2020 (forwarded by S Greenwood)
MEM 2	Cllr B Wood, 14 May 2020

### *Members of the public*

15 letters in response to first public consultation (17 March – 15 April 2020)

205 letters (from 202 individuals), in response to second public consultation (15 May - 2 June 2020)

## GENERAL INQUIRY DOCUMENTS

- GEN 1 Statement of Common Ground (Planning) 24 April 2020
- GEN 2 Statement of Common Ground (Highway Matters) 8 April 2020
- GEN 3 Statement of Common Ground (Housing Land Supply) 12 May 2020
- GEN 4 Statement of Common Ground (Landscape), 12 May 2020
- GEN 5 Draft conditions (received 28 April 2020)

## CORE DOCUMENTS

### *Application Documents*

- CD 1.1 Application Form
- CD 1.2 Application Cover Letter
- CD 1.3 Planning Statement
- CD 1.4 Environmental Impact Assessment Screening Request
- CD 1.5 Location Plan
- CD 1.6 Development Framework Plan
- CD 1.7 Landscape and Visual Impact Assessment
- CD 1.8 Transport Assessment Part 1
- CD 1.8a Transport Assessment Part 2
- CD 1.9 Residential Travel Plan Jul 2019
- CD 1.10 Arboricultural Impact Assessment
- CD 1.11 Flood Risk Assessment Jul 2019
- CD 1.12 Utilities Assessment Part 1
- CD 1.12a Utilities Assessment Part 2
- CD 1.12b Utilities Assessment Part 3
- CD 1.12c Utilities Assessment Part 4
- CD 1.13 Health Impact Assessment
- CD 1.14 Interim Ecological impact Assessment September 2019
- CD 1.15 Energy Statement June 2019
- CD 1.16 Noise Assessment July 2019
- CD 1.17 Air Quality Assessment July 2019
- CD 1.18 Archaeological Desk Based Assessment Feb 2017
- CD 1.19 Minerals Resource Assessment Part 1 Jul 2019
- CD 1.19a Minerals Resource Assessment Part 2 Jul 2019
- CD 1.19b Minerals Resource Assessment Part 3 Jul 2019
- CD 1.20 Shadow Habitats Regulations Assessment
- CD 1.21 Geophysical Survey May 2017
- CD 1.22 Geo-Environmental Site Assessment July 2019 Part 1
- CD 1.22a Geo-Environmental Site Assessment July 2019 Part 2
- CD 1.22b Geo-Environmental Site Assessment July 2019 Part 3
- CD 1.22c Geo-Environmental Site Assessment July 2019 Part 4
- CD 1.23 Preliminary Ecological Appraisal
- CD 1.24 Agricultural Land Classification Report and Letter
- CD 1.25 Statement of Community Involvement June 2019
- CD 1.26 Strategy Document V4 July 2019
- CD 1.27 Written Scheme of Investigation
- CD 1.28 Built Heritage Assessment 15.10.19
- CD 1.29 Letter in response to Planning Policy Consultation Response
- CD 1.30 Letter in response to agricultural Land classification and landscape Comments
- CD 1.31 Landscape Consultation Comments

### *Development Plan Documents*

- CD 2.1 Colchester Borough Council Core Strategy 2008, selected policies revised July 201
- CD 2.2 Colchester Borough Council Site Allocations DPD 2010
- CD 2.3 Colchester Borough Council Development Policies DPD 2010, revised July 2014
- CD 2.4 Colchester Borough Council Tiptree Proposals Map 2010

- CD 2.5 Essex County Council - Essex Minerals Local Plan 2014
- CD 2.6 Colchester Borough Council Strategic Land Availability Assessment June 2017
- CD 2.7 Report on Examination to Core Strategy Dev Plan Oct 2008

#### *National Planning Policy*

- CD 3.1 The Revised National Planning Policy Framework 2019

#### *Emerging Local Plan*

- CD 4.1 Colchester Borough Council Emerging Local Plan Publication Draft June 2017
- CD 4.2 Tiptree Neighbourhood Plan Regulation 16 edition
- CD 4.2a Tiptree Neighbourhood Plan Results from Survey of Residents
- CD 4.2b Tiptree Neighbourhood Plan Questionnaire Feedback Results
- CD 4.3 Sustainability Appraisal Part 2 Colchester Local Plan, July 2016
- CD 4.4 Settlement Boundary Review 2017
- CD 4.5 Inspector's Section 1 Post Hearing Letter to NEAs 8 June 2018
- CD 4.6 Inspector's Section 1 Supplementary Post Hearing Letter to NEAs 27 June 2018
- CD 4.7 Inspector's Section 1 Response Letter to NEA 2 August 2018
- CD 4.8 Colchester Borough Council Emerging Local Plan Publication Draft: Tiptree Policies Map June 2017
- CD 4.9 Tiptree NP SEA Appendix 3 Feb 2020
- CD 4.10 Tiptree NP SEA Report Reg 16 Feb 2020

#### *Evidence Base*

- CD 5.1 Publication Draft Sustainability Appraisal Part 2 Colchester Local Plan, June 2017
- CD 5.2 Colchester Borough Council Annual Monitoring Reports
- CD 5.3 Colchester Borough Council Annual Housing Land Position Statement 2020
- CD 5.4 Colchester Borough Council Strategic Housing Market Assessment
- CD 5.5 OAN & further Peter Brett work
- CD 5.6 Affordable Housing SPD August 2011
- CD 5.7 Provision of Community Facilities SPD September 2009 (revised July 2013)
- CD 5.8 Provision of Open Space, Sport and Recreation Facilities SPD July 2006
- CD 5.9 Managing Archaeology in Development (Adopted 2015)
- CD 5.10 Developing a Landscape for the Future SPD 2013
- CD 5.11 Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS) Habitats Regulations Assessment Strategy 2018-2038
- CD 5.12 Essex County Council: Developers' Guide to Infrastructure Contributions, 2016
- CD 5.13 NHS East Essex Health Impact Assessment
- CD 5.14 Colchester Infrastructure Development Plan June 2017
- CD 5.15 SoCG - Housing Land Supply Final Bloor Homes & Colchester Borough Council

#### *Landscape*

- CD 6.1 The Conservation of Habitat and Species Regulations 2017
- CD 6.2 Colchester Borough Landscape Character Assessment, Chris Blandford Associates, November 2005 (Extracts)
- CD 6.3 Essex Landscape Character Assessment 2003
- CD 6.4 Colchester Borough Local Wildlife Site Review 2015 Final Report November 2017
- CD 6.5 Colchester Borough Historic Environment Characterisation Project 2009,
- CD 6.6 Guidelines for Landscape and Visual Impact Assessment (3rd edition) (GLVIA3)
- CD 6.7 Townscape Character Assessments – Colchester, Tiptree, West Mersea & Wivenho
- CD 6.8 Landscape Institute Technical Guidance Note 06/19

*Appeal Decisions in Colchester Borough*

- CD 7.1 Appeal Decision APP/Z1510/W/18/3207509 - Land off Colchester Road, Bures Hamlet, Essex, August 2019
- CD 7.2 Appeal Decision APP/A1530/W/19/3230908 – Land adjacent to the Red Lion Public House, 130 Coggeshall Road, Marks Tey, November 2019
- CD 7.3 Appeal Decision APP/A1530/W/17/3178656 – Bakers Lane, Braiswick, Colchester, March 2018
- CD 7.4 Appeal Decision APP/A1530/W/18/3207626 - Colchester Road West Bergholt, Aug 2019
- CD 7.5 Appeal Decision APP/A1530/W/19/3231964 - Land at Queen Street Colchester December 2019.
- CD 7.6 Appeal Decision APP/A1530/W/19/3223010 – Barbrook Lane, Tiptree, Colchester April 2020

*Other Relevant Appeals and Court Judgements*

- CD 8.1 Gladman Developments Limited v. SSHCLG & Corby BC & Uttlesford DC: [2020] EWHC 518 (Admin)
- CD 8.2 APP/L3815/W/15/3004052 Sunley Estates Ltd v SSHCLG
- CD 8.3 APP/X0360/W/19/238048 Land north of Nine Mile Ride, Finchampstead

*Minerals*

- CD 9.1 Figure 1 Illustrative Site Layout Plan 2019
- CD 9.2 The Planning and Design of Aggregate Quarries for Non Agricultural Afteruse 2006
- CD 9.3 MPA POS Minerals Safeguarding Practice Guidance
- CD 9.4 Register Title EX806468
- CD 9.5 Register Title EX651731
- CD 9.6 Mineral Safeguarding Good Practice Advice
- CD 9.7 Review of Updated Mineral Resource Assessment April 2020
- CD 9.8 RSK Environment Letter to ECC 21 11 2019
- CD 9.9 Bloor Homes Updated Minerals Resource Assessment 1920114 (03)