

*Colchester Borough Council*  
*Local Plan Examination of Section 2*  
*Topic Paper 2 - Housing Matters*  
*March 2021*

**1.0 Introduction**

- 1.1 This Topic Paper has been prepared to respond to housing issues that have arisen since the submission of the Local Plan recognising that a lot can change in 3 and 1/2 years in terms of housing land supply and delivery. Therefore, it is necessary to provide an updated housing position paper that will address;
- Whether the plan provides an adequate supply of land to meet the housing requirement (as identified within Part 1 as Modified) over the plan period.
  - Whether the plan will provide a five-year supply of deliverable sites from its date of adoption.
  - Whether the plan will make appropriate provision for affordable housing, accommodation for gypsies and travellers, accessible and adaptable housing, and housing to meet the needs of particular groups, such as (for example) disabled people, older people, and students.
- 1.2 The Paper will draw upon our latest Housing Supply Statement (published May 2020) and recent appeal decisions confirming that CBC has a five-year housing land supply. The paper will also address the implications of the removal of the Colchester Braintree Garden Community from the plan, to demonstrate that the remaining housing allocations are sufficient to cover the loss of 1350 units to be delivered there during the plan period.

**2.0 Housing Delivery**

- 2.1 In February 2019 the first results of the Housing Delivery Test were published. Earlier this year the second set of results were published which confirmed that the Council has delivered 3,392 homes against a target of 2,270 homes. The target for the previous three years was calculated by the Ministry of Housing, Communities and Local Government (MHCLG). The results demonstrated that Colchester had delivered 122% against target and is therefore only obliged to apply a buffer of 5% to its housing target. This has been agreed with appellants at Planning Appeals.
- 2.2 In the three years of the plan period the Council has exceeded its target as follows;

Year	Target	Completions	Cumulative target	Cumulative completions	Cumulative completions against target
2017/18	920	1048	920	1048	+ 128
2018/19	920	1165	1840	2213	+ 373
2019/20	920	1124	2760	3337	+ 577

The oversupply has in part been as a result of a large number of permitted development schemes being delivered.

### 3.0 Housing Land Supply

3.1 The Colchester Local Plan was submitted in October 2017 and is being examined under the National Planning Policy Framework (NPPF) published in 2012. Accordingly, an Objectively Assessed Housing Need Study was produced to establish the number and type of new homes required. This was published in 2015 and updated in 2016 and meets the requirements of the NPPF to prepare a Strategic Housing Market Assessment (SHMA).

3.2 The Section 1 Inspector has found Section 1 of the North Essex Authorities Shared Strategic Section 1 Plan sound subject to modifications and has accordingly confirmed the Councils position with regard to housing numbers. CBC adopted Section 1 on 1 February 2021. The Objectively Assessed Housing Need target is set out in Policy SP3 and identifies an annual target for Colchester of 920 new homes. The Inspector concludes the following in his letter of June 2018;

*'The housing requirement figures for each of the NEAs set out in submitted policy SP3 are the same as the figures which I have concluded represent their respective objectively-assessed housing needs. Accordingly, submitted policy SP3's housing requirements are soundly based.'* (IED012 – Inspector's Section 1 Supplementary Post-hearing letter to NEAs – 27 June 2018)

3.3 As part of the process of reaching a final decision on the plan, the Section 1 Inspector asked the North Essex Authorities (NEAs) to consider whether the latest ONS household projections (2018-based) represented a meaningful change in the housing situation. Work undertaken to address this matter concluded that there is no meaningful change in Colchester. The supporting evidence report by Stantec can be viewed [here](#).

3.4 The Council accordingly prepared a plan to provide an adequate supply of land to meet the housing requirement over then plan period to 2033. Based on an annual requirement of 920 units a year this equated to at least 14,720 new homes between 2017 and 2033. Policy SG2 and the accompanying table on page 72 of the Local Plan demonstrates how this will be achieved. Up to 31<sup>st</sup> March 2020, 3337 units have already been delivered which leaves a requirement of 11,383.

- 3.5 However, between submission in 2017 and the current day there have been changes in the supply, not least the deletion of 1350 units in the proposed Garden Community at Colchester Braintree Borders. In addition, a site within Stanway, allocated for 200 new homes, received permission for a retail and leisure led development which will reduce the proposed supply.
- 3.6 Several allocations in the plan have however already been approved in advance of the examination and one major appeal has been allowed which adds an additional 200 units to the expected supply.
- 3.7 The Councils detailed 15-year trajectory shows that there are sites available to deliver against this target. The full document is attached as Appendix 2, but the sites can be broken down as detailed in the following table. This shows a total supply of 12,725 against a target of 11,383 which results in a surplus of 1342 units.

<b>Colchester Housing Land Supply</b>	
Sites with PP	6174
Existing allocations without PP	1057
Garden Community	1075
New urban allocations	3031
Other new allocations	863
Neighbourhood Plan allocations	480
Rural Exception Sites	45
<b>TOTAL</b>	<b>12,725</b>

#### **4.0 Five Year Housing Land Supply**

- 4.1 Having established the annual housing target the Council needs to demonstrate that it has a sufficient supply of specific and deliverable sites for the first five years of the plan and specific, developable sites or broad locations for years 6 – 10 and where possible for years 11 – 15.
- 4.2 The revised NPPF sets out a new definition of deliverable and the PPG provides more detail. Accordingly, the housing trajectory and housing land supply statement have been reviewed to ensure all sites within the 5-year supply comply with the new definition.
- 4.3 A number of assumptions have been used which strictly accord with the new definition. All sites within the 5-year supply are available now, in a suitable location and there is a realistic prospect that delivery will be achieved within 5 years.
- 4.4 Sites with planning permission for up to nine dwellings and sites of ten or more with detailed planning permission have been assumed to be deliverable unless there is evidence that suggests otherwise.

- 4.5 For the purposes of 5- year supply, permitted development sites and those where prior approval has been granted are considered to carry the same status as a full planning permission.
- 4.6 Colchester has maintained a five-year housing land supply measured against the most up to date annual requirement plus a 5% buffer. This is reviewed at least annually, and the most recent Housing Land Supply Report was published in April 2020. This is attached as an Appendix to this Topic Paper.
- 4.7 The annual report reflects the change in national policy with regard to the definition of delivery and the updated target set by the Standard Methodology which has been used in decision making while the Plan is at examination. The report shows that the Council has a housing land supply which would see the delivery of 6108 new dwellings over the relevant five-year period between April 2020 and March 2025. This is 449 units above the SM target and incorporating a 5% buffer. For the purpose of plan making and the use of the Local Plan target of 920, the supply of 6108 units is 1508 units above the target.
- 4.8 The Council's 5- year supply has been tested at appeal and found to be robust. The most recent case being APP/A1530/W/20/3248038: Land at Maldon Road, rear of Peakes Close, CO5 0PG. This decision is attached as Appendix 3.

## **5.0 Affordable Housing and Gypsy and Traveller Provision**

*Whether the plan will make appropriate provision for affordable housing, accommodation for gypsies and travellers, accessible and adaptable housing, and housing to meet the needs of particular groups, such as (for example) disabled people, older people, and students.*

### **Background**

- 5.1 Colchester's submitted Local Plan policies are intended to ensure that in addition to addressing the overall need to meet housing delivery targets, as covered above, the Council also addresses the need to meet the housing needs of a wide range of particular groups. This follows on from the Council's approach in its Strategic Plan. Ensuring a good supply of land available for new homes through our Local Plan under the 'Opportunity' objective is part of a comprehensive approach that also highlights the need to 'create new social housing by building Council homes and supporting Registered Providers' under the 'Wellbeing' objective and by grasping the opportunity to 'develop jobs, homes, infrastructure and communities to meet the borough's future needs by creating new Garden Communities' under the 'Grow' objective.

## Section 1

- 5.2 Policy SP4 sets overall housing delivery totals for the three North Essex authorities, but as paragraph 4.6 of the Section 1 Plan explains, ‘evidence on overall levels of affordable housing provision elsewhere in the Districts will be set out in more detail within the individual Local Plans and will take account of identified needs’. This approach meant that the Inspector considered affordable housing need primarily in the context of its effect on overall housing numbers. His letter of 27<sup>th</sup> June 2018 to the NEAs concluded that the evidence on housing need presented in the Council’s Strategic Housing Market Assessment did not justify an adjustment to the housing delivery target. He did not raise any other soundness issues concerning the Council’s approach to affordable housing or housing mix.
- 5.3 Section 1, however, does contain more detail on affordable housing and Gypsy and Traveller provision for the cross-boundary Garden Community. Policy SP8 includes provision for Gypsies and Travellers within the list of housing requirements for the Tendring Colchester Borders Garden Community, and criteria (v) of that policy sets out the requirement for its housing mix: *Development that provides for a truly balanced and inclusive community and meets the housing needs of local people including a mix of dwelling sizes, tenures and types, provision for self- and custom-built homes, provision for the aging population, and provision for Gypsies and Travellers; and that meets the requirements of those most in need including the provision of 30% affordable housing in the garden community.*

## **Housing Provision for Particular Groups in Section 2**

- 5.4 Section 2 of the Local Plan contains policies to meet NPPG requirements that ‘Plan-making authorities should assess the need for housing of different groups and reflect this in planning policies’. Specifically, Policy DM8 covers affordable housing, Policy DM10 covers housing diversity and requirements for housing for older people and specialist housing, self-build/custom housing, gypsies and travellers, students and hospice provision; and Policy DM11 contains more specific guidance for gypsies, travellers, and travelling show-people.
- 5.5 To establish if the above policies are appropriate further to the Inspectors’ question, this section of the Topic Paper will focus on firstly, the evidence base for each policy, and secondly whether there are any particular deliverability issues constraining delivery of the policies supporting a wide range of housing types.
- 5.6 The policy wording itself is considered to remain robust and to provide the appropriate balance between addressing the housing needs of particular groups and retaining sufficient flexibility for sites to emerge under different circumstances and across a variety of locations. The Council’s Call for Sites process which fed into the site selection process provided an opportunity for developers to identify the need to make more specific allocations if appropriate.

The pro forma to be completed by developers included a section entitled 'Proposed Future Uses and Capacity' which in addition to a tick box for 'Residential' also included boxes for Affordable Housing, Gypsy, Travellers and Travelling Show-people, and Other, amongst a range of possible uses. Landowners however were reluctant to constrain their options at early stages of plan development, with proposals for housing for specific groups appearing largely through the planning application process.

## **DM8 – Affordable Housing**

- 5.7 The evidence base for the policy's affordable housing requirement for 30% of new dwellings on housing developments of more than 10 dwellings in urban areas and above 5 units in designated rural areas is contained in the following Council [evidence base documents](#):

### Strategic Housing Market Assessment (SHMA):

- 5.8 The 2015 SHMA, (HDH consultants), in line with the requirements contained in national guidance, analysed a range of demographic, employment and housing market data to produce outputs for an affordable housing needs model. Its conclusions for Colchester, within the wider North Essex Strategic Housing Market Area, were as follows:

*7.13 The total annual affordable housing need in Colchester of 267 (as set out in Appendix 5) represents 30.2% of the annual projected household growth in the Borough between 2013 and 2037 (855 households per year as identified within the OAN calculations as provided by Edge Analytics). This proportion of new housing as affordable appears achievable to deliver in Colchester. It is clear that the Council can be confident that the affordable housing requirement can be met by the Objectively Assessed Need identified and no adjustment is required to this figure. The figure of 30.2% is similar to the proportion of new affordable housing required within the LTBHM [Long Term Balancing Housing Markets] model, 24.8% as indicated in table A4.3c, providing further evidence that the assumptions reflect the realities of the current housing market locally.*

*7.14 Furthermore, the evidence in this report would suggest that the Council should pursue an overall affordable housing target of 30-35% when negotiating section 106 sites with housing developers, although other evidence such as the Council's viability assessment will also need to be considered and allowance will need to be taken of the fact that some sites may not deliver affordable housing (for example due to policy thresholds). (p. 84)*

- 5.9 The SHMA reflects the position in 2015, but the [Council's Housing and Homelessness Summary](#) provides evidence of the ongoing need for affordable housing. It notes over the period April 2019 – March 2020 there were only 658 lets of affordable housing compared to almost 3,000 households on the register.

## Colchester Economic Viability Study

- 5.10 Policy DM8 states that the 30% target 'balances the objectively assessed need for affordable housing in the Borough established by the evidence base, against the requirement for flexibility to take account of changing market conditions.'
- 5.11 The evidence base for the Council's confidence in the ability for the 30% target to be delivered is contained in the Colchester Economic Viability Study prepared by Troy Planning and Three Dragons in June 2017. The model developed by Three Dragons was used to assess viability for a range of development types. They subdivided the Borough into two different value areas: Central, and Tiptree and Rural area, on the basis that land values were generally higher in the Tiptree and Rural area. It established that the 30% target was achievable on most sites over 10 units, and sites of 6 to 10 units in rural areas.
- 5.12 The study modelled affordable housing at 30% and 35% in line with the recommendations from the SHMA. A value lower than this was not assessed due to initial findings demonstrating this was not necessary. The affordable units were split 80/20 between rented and shared ownership tenure as this best reflects the requirements of the registered providers to develop affordable housing schemes that meet their financial criteria whilst addressing the high need for affordable rented tenure identified in the SHMA.
- 5.13 The SHMA indicated a shortfall for all accommodation sizes with the greatest net need varying upon tenure type. For market housing, the greatest need is for three-bedroom properties, affordable rent/social rent for two-bedroom properties and shared ownership for one-bedroom properties. The Council consider this overall need is best met if the affordable housing provision is informed by the latest assessment of local market conditions, housing need and shortages relative to supply in determining the optimum affordable housing mix. This approach precludes the provision of overly prescriptive requirements within the policy on housing mix specifications, as the affordable housing mix can be considered through the planning application process.
- 5.14 In line with national guidance, the Council will consider exceptions to requirements to meet the 30% target where supported by viability evidence, as specified in paragraph 15.38 of the supporting text for Policy DM8. This acknowledges special circumstances in cases where sites might be affected by high remediation costs, and unique remediation costs.
- 5.15 The Council intends to expand on the overall target provided in DM8 by adopting a Supplementary Planning Document on Affordable Housing to provide more specific detail to guide planning applicants, including the splits between different forms of affordable/social rent tenures, the calculation of the number of affordable units required for a development, viability assessment requirements and exceptions to affordable housing policy.

- 5.16 To ensure that the definition of affordable housing remains up to date the glossary provides that it be based on the current definition in the National Planning Policy Framework (or any successor document).

### **DM10 Housing Diversity**

- 5.17 Policy DM10 addresses the range of particular groups and issues covered in the initial question, i.e. gypsies and travellers, accessible and adaptable housing, and housing to meet the needs of particular groups, such as (for example) disabled people, older people, and students. For each of these groups/issues, the approach is to support provision in principle for specialist housing. For more generic housing applications the policy requires that developers ensure they demonstrate how their proposal will be capable of meeting and adapting to the needs of residents as they age and change over time, including the provision of accessible or adaptable dwellings.
- 5.18 The SHMA considered the specific profiles of the following groups of the population which were considered to have an appreciable impact on the housing market: older persons, people with disabilities, family households, students, and service families. Older persons were the numerically most significant element within the housing market, comprising 20.2% of Colchester households. The SHMA noted that Colchester was expected to experience a 60.6% growth in the over-65 population, demonstrating a growing demand for housing for this age group. The SHMA also found a demand in the wider Housing Market Area for a range within 7,746 and 13,021 units of specialist sheltered and extra care housing for over-75s to 2028. The market in Colchester has responded to this demand with the delivery/proposals of sheltered and extra care schemes. This has addressed one particular sub-set of demand within the older population, but given that housing for older people will primarily be spread throughout communities, it is appropriate that the policy wording does not provide an overly prescriptive approach to the location of specific facilities for older people. In cases where the Council is aware of a particular scheme, such as, the Extra Care Scheme in Northern Gateway (Policy NC1) it is highlighted.
- 5.19 The SHMA also considered demand for accessible and adaptable housing, which in addition to the need by specific groups such as the 17.7% of the resident population with long-term health problems or disability also includes the wider need for all housing to be suitable for the general population as it ages. Housing moves might be required to meet changing family sizes as children leave home but should not be automatically generated by poor design inhibiting adaptation for age and/or disability.
- 5.20 The Council maintains a register of individuals and groups who are seeking to acquire serviced plots of land in the Borough, in line with the Self-Build and Custom Housebuilding Act 2015. <https://www.colchester.gov.uk/info/cbc-article/?catid=things-to-know&id=KA-01218>. There is an explicit reference to self-build and custom homes forming part of the housing mix in the Tendring Colchester Borders Garden Community, while Policy DM10 provides for a

supportive approach in encouraging proposals as they emerge throughout the Borough.

- 5.21 Up to date strategic planning for the University of Essex was not available at the time of SHMA completion, but the University's ambitious expansion strategy is now available. The 2019-2025 Strategy provides that the University will expand from its current number of about 14,000 students to a total of 20,000 by 2025, with approximately 17,000 of those on the Colchester campus. Housing to meet this increasing demand is being delivered both on and off-campus by the University and by private developers. Given the University's position at the edge of Colchester adjacent to redevelopment areas in East Colchester, these new student schemes have been able to meet the criteria of ready accessibility to access to public transport and University facilities, and have benefitted from the comprehensive management schemes and level of amenities associated with purpose-built student schemes.

### **DM11 Gypsies, Travellers, and Travelling Show-people**

- 5.22 The May 2017 Update report by ORS on Gypsy and Traveller Accommodation Assessment (GTAA) for Colchester provides a robust basis for the Council's policy as it reflects the revised definition of travellers contained in the August 2015 revised version of Planning Policy for Travellers Sites. This change meant that those who have ceased to travel permanently no longer fall under the definition of a traveller for the purposes of assessing accommodation need in a GTAA. The Colchester GTAA was part of a wider study that covers the whole of Essex, together with Southend-on-Sea and Thurrock, ensuring that Colchester was considered in the context of Essex-wide provision for gypsies and travellers. ORS methodology followed approved guidance to analyse a wide range of secondary data (including the Census, planning application/appeal information, authorised and unauthorised site records, caravan counts, existing studies and guidance) as well as interviews with residents on all occupied pitches and plots and relevant 'bricks and mortar' households.
- 5.23 The ORS update did not fundamentally alter the picture on gypsy and traveller provision in Colchester even though the change in definition clearly reduced the statutory requirement. The earlier requirement for 15 pitches went down to 2 pitches. As paragraph 15.50 of the supporting text to Policy DM11 notes however, it was 'still considered necessary to provide for the full need of those identifying as gypsies and travellers as they are amongst the groups identified as having particular needs in the SHMA'.
- 5.24 ORS did not identify a need for travelling show-people sites in Colchester. They recommended that the issue of unauthorised sites should be monitored to establish if there was a need for investment in more formal transit sites or stopping places to serve the wider Essex area. The Essex authorities have commissioned ORS to complete a study on the need for a transit site in Essex. The work was commissioned at the beginning of 2020, but Covid 19 restricted

the necessary site visits and has delayed progress on the study, which was originally scheduled to run for a year to cover the full cycle of travelling over the seasons. Once the updated evidence is completed it will be added to the Councils evidence base on the website and any potential resultant implications will be advised.

## **6.0 Conclusion**

- 6.1 The Council considers that it can demonstrate a sufficient housing land supply for the plan period and a 5 year supply of deliverable sites.
- 6.2 The Council also considers that its policies on affordable housing, housing diversity, and gypsies, travellers and travelling show-people can demonstrate that they meet the criteria of being based on a robust evidence base and that there deliverability is not constrained by significant viability or policy issues.

## **7.0 Appendices**

- 1. Annual Housing Land Position Statement May 2020
- 2. 15 Year Housing Trajectory - October 2020
- 3. Appeal Decision Maldon Road, Tiptree August 2020
- 4. Appeal Decision Braiswick, Colchester October 2020

Appendix 1 - Annual Housing Land Position Statement May 2020



# Colchester Borough Council

## 2020 Housing Land Supply Annual Position Statement

May 2020

# Contents

	Page
1. Status of Document	3
2. Local Context	4
3. Housing Target for Colchester	5
4. National Policy	5
5. Standard Methodology	8
6. Previous Delivery	9
7. Windfall Allowance	10
8. Five Year Supply	12
9. Supply of Deliverable Sites	13
10. Monitoring	18

Appendix 1 – Local Housing Need & Housing Delivery Test

Appendix 2 - 5 Year Housing Trajectory

Appendix 3 - Site Information

Appendix 4 – Local Agents Letters

# 1 Status and Content of this Document

- 1.1 This document sets out Colchester's housing land supply position and explains how this position complies with the requirements of national policy and guidance.
- 1.2 The document represents the current housing land supply position as of 1<sup>st</sup> April 2020. The relevant five year housing land supply period therefore covers the period between 1<sup>st</sup> April 2020 and 31<sup>st</sup> March 2025.
- 1.3 In accordance with the PPG the trajectory in Appendix 1 provides details of all sites that are expected to deliver new units in the next five years. For each site, details are included of the current planning status, the number of homes completed, homes under construction and those expected to be built, as well as the expiry date of permissions where applicable, and whether or not sites are counted as windfall. For major sites which do not benefit from full planning permission additional information and clear evidence is included in this report which demonstrates that there will be housing completions on site within 5 years, including current planning status, timescales and progress. The report also sets out the 5 year land supply calculation and identifies the appropriate buffer (5%), and that there is no shortfall to address. Section 8 confirms that there is a 5 year supply of deliverable housing land.
- 1.4 The information contained in this document is correct in respect of the time period it covers but due to the nature of housing supply and delivery it is considered to be a 'live document'. It is therefore subject to change as and when new information is received which changes the housing supply and/or housing delivery position. Notwithstanding this, the base date of the supply will not change, and new sites will not be added. Only those sites already included but where circumstances change may be updated, i.e. if reserved matters approval is granted on a site which at the base date has outline consent.
- 1.5 At the time this report is being drafted (March/April 2020), there is much uncertainty in the housing market as a result of Covid 19. As a result, the additional information contained in appendices 3 and 4 has not been updated. In addition, housing completion data for 2019/20 is incomplete because it has not been possible to undertake all site visits in March. The information received up until then demonstrates that the annual delivery target has been met.
- 1.6 The Council acted swiftly to address the issue of not holding planning committees. Further delegation is being used to ensure there are no hold ups to decision making and arrangements are in place to facilitate the sealing of legal documents.

## 2 Local Context

- 2.1** Colchester Borough Council has an adopted Local Plan which consists of its Core Strategy (adopted in 2008 and subject to a Focused Review in 2014), Site Allocations DPD (adopted 2010) and Development Policies DPD (adopted 2008 and reviewed 2014). In addition there are five adopted Neighbourhood Plans within Colchester Borough in the form of the Myland and Braiswick Neighbourhood Plan, Boxted Neighbourhood Plan, Wivenhoe NP, Eight Ash Green NP, West Bergholt NP which were adopted between 2016 and 2019.
- 2.2** The adopted Local Plan set a minimum housing target of 19,000 new homes between 2001 and 2023 at an annual rate of 830 dwellings per year (2008 – 2021) and 855 dwellings per year (2022-23). Housing delivery over the period to date has exceeded expectations and the Council has overseen a cumulative surplus of housing delivery.
- 2.3** In 2017 the Council submitted a new Local Plan to direct future development and growth in the Borough and allocate sufficient land to meet objectively assessed housing needs over the plan period from 2017 to 2033. The plan preparation included the production of an up to date and robust evidence base, including a Strategic Housing Market Assessment and Objectively Assessed Housing Need Assessment. Accordingly, the emerging Local Plan sets a housing target of 14,720 over the plan period at an annual rate of 920 dwellings per year. This target was used to monitor delivery and supply from 2013 until 2018 when the revised National Planning Policy Framework (NPPF) introduced the use of the Standard Methodology. In order to meet increased housing targets, the new Local Plan allocates additional land to supplement sites already identified and committed for residential development.
- 2.4** Affordable Housing is sought on all sites above thresholds contained in the adopted Local Plan (Policy H4 of the Core Strategy). This sets out that 20% affordable housing will be sought on sites of 10 or more units in the urban area and larger villages and on sites of 5 or more dwellings in other villages. For those emerging sites contained in the 5 year supply 30% affordable housing will be provided in accordance with emerging policy.

## 3 Housing Target for Colchester

- 3.1** Colchester's five-year housing land supply requirement is based on an annual housing target of 1078. The standard methodology has been used to calculate this figure and this will continue to be used until such time as an updated housing target is adopted in a new Local Plan.
- 3.2** Earlier this year the Housing Delivery Test was introduced to address issues of persistent under-delivery. Colchester exceeded the target set and therefore only needs to add a 5% buffer to the target of 1078. This results in an annual requirement of 1131 which equates to a five year supply of 5659.

## 4 National Policy

- 4.1** A core principle of the National Planning Policy Framework (NPPF) is a commitment that planning should be genuinely plan-led and that planning should proactively set out to meet the growth needs of an area. This is re-enforced at Section 5 which sets the requirements of local planning authorities to ensure that objectively assessed housing needs are met through the identification of housing development sites.
- 4.2** Paragraph 73 requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing land against their housing requirements. A buffer is required to be added to this five year requirement, the level of which is determined by the Housing Delivery Test based on local planning authorities' recent housing delivery record: a default 5% buffer is added to ensure choice and competition in the market for land; and in areas where the local planning authority has overseen a persistent under delivery of housing, this is increased to 20%. In both instances the buffer is brought forward from later in the plan period so that the overall housing target in the plan period is not affected.
- 4.3** Planning Practice Guidance (PPG) contains information on how authorities can review their 5 year land supply on an annual basis. Local planning authorities may need to develop a range of assumptions and benchmarks to help to inform and test assessments. Assumptions can include lapse/non-implementation rates in permissions, lead-in times and build rates, and these assumptions and yardsticks can be used to test delivery information or can be used where there is no information available from site owners/developers to inform the assessment. Assumptions should be based on clear evidence, consulted upon with stakeholders, including developers, and regularly reviewed and tested against actual performance on comparable sites. Tables of assumptions should be clear and transparent and available as part of assessments. This approach will ensure the assessment of delivery on sites will be as robust as possible.
- 4.4** The PPG usefully sets out the type of information that assessments should include as detailed below;
- for sites with detailed planning permission, details of numbers of homes under construction and completed each year; and where delivery has either exceeded or not progressed as

expected, a commentary indicating the reasons for acceleration or delays to commencement on site or effects on build out rates;

- for small sites, details of their current planning status and record of completions and homes under construction by site;
- for sites with outline consent or allocated in adopted plans (or with permission in principle identified on Part 2 of brownfield land registers, and where included in the 5 year housing land supply), information and clear evidence that there will be housing completions on site within 5 years, including current planning status, timescales and progress towards detailed permission;
- permissions granted for windfall development by year and how this compares with the windfall allowance;
- details of demolitions and planned demolitions which will have an impact on net completions;
- total net completions from the plan base date by year (broken down into types of development e.g. affordable housing); and
- the 5 year land supply calculation clearly indicating buffers and shortfalls and the number of years of supply.

**4.5** Appeal Inspectors are also starting to comment on the content of Position Statements. The following statement has been taken from an appeal decision in Braintree;

*“That is not to say that there should be publication of every email or every note of a meeting or telephone conversation. The information can be provided in summary form but there needs to be some means of identifying the basis for the conclusion reached.”*

**4.6** The revised NPPF introduced a new definition of deliverable. For sites to be considered deliverable, the NPPF states they should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

**4.7** Planning Practice Guidance (PPG) provides further guidance on what constitutes a deliverable site. Where evidence is required to demonstrate that housing completions will begin on site within 5 years, this evidence may include:

- any progress being made towards the submission of an application;
- any progress with site assessment work; and
- any relevant information about site viability, ownership constraints or infrastructure provision.

- 4.8** The NPPG also makes clear that local planning authorities may need to develop a range of assumptions and benchmarks to help to inform and test assessments. Assumptions can include lapse/non-implementation rates in permissions, lead-in times and build rates.
- 4.9** Paragraph 70 of the NPPF states that local planning authorities may make an allowance for windfall sites in the five year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to historic windfall delivery rates and expected future trends.
- 4.10** Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
- 4.11** This Annual Position Statement has been prepared in accordance with the requirements set out in national policy and guidance. It is expected that the statement will be updated every year in April as soon as the previous year's delivery is known.

## 5 Standard Methodology

- 5.1** The National Planning Policy Framework expects strategic policy-making authorities to follow a standard method for assessing local housing need unless there are exceptional circumstances. The NPPF also sets out transitional arrangements for emerging local plans submitted on or before 24th January 2019. Colchester falls into this category and accordingly has based its emerging Local Plan on policies in the previous Framework (2012). This means that the annual target within the emerging Local Plan is derived from an objectively assessed housing need (OAN) study published in 2015 and updated in 2016 by Peter Brett Associates in full compliance with national guidance (the NPPF & NPPG).
- 5.2** The emerging Local Plan is at an advanced stage and matters concerning housing were discussed at a hearing session in 2018. The Inspector subsequently wrote to North Essex Authorities and confirmed that the figure of 920 represents the OAN in accordance with the NPPF/PPG.
- 5.3** However, until such time as the emerging Local Plan policy is adopted, the Standard Methodology will be used for decision making. At the time of this annual update the annual target generated by the standard methodology is 1078 and this forms the basis of this 5 Year Supply Position Statement. This rises to 1131 dwellings per year when the 5% buffer is added and a 5 year requirement of 5659.
- 5.4** The standard method uses a formula to identify the minimum number of homes expected to be planned for, in a way which addresses projected household growth and historic under-supply. The standard method identifies a minimum annual housing need figure. It does not produce a housing requirement figure.
- 5.5** Housing requirement figures identified in strategic policies should be used as the starting point for calculating the 5-year land supply figure in the following circumstances:
- for the first 5 years of the plan, and
  - where the strategic housing policies plans are more than 5 years old, but have been reviewed and are found not to need updating.
- 5.6** In other circumstances, the starting point for calculating housing need will be the standard method which will inform the 5-year land supply requirement.
- 5.7** The standard method figure changes on an annual basis taking into account various data sets however primarily it considers the following:
- Household projections (updated every two years)
  - Affordability Ratios (updated yearly).
  -
- 5.8** The detailed methodology applied to Colchester is attached in Appendix 1.

## 6 Previous Delivery

- 6.1** National policy states that where local planning authorities have a record of persistent under delivery of new housing, there is a requirement to apply a 20% buffer to its five-year housing requirement. National policy has introduced the Housing Delivery Test (HDT) to clarify in which situations a 20% should be applied.
- 6.2** Colchester Borough Council has an excellent record of housing delivery over a prolonged period. Since 2001/2 it has overseen the delivery of just over 18,000 new homes at an average rate of 948 new dwellings per year.

Year	Annual target	Completions per year	Cumulative target	Cumulative completions	Cumulative completions against target
2001/02	830	566	830	566	<b>-264</b>
2002/03	830	980	1660	1546	<b>-114</b>
2003/04	830	916	2490	2462	<b>-28</b>
2004/05	830	1277	3320	3739	<b>+419</b>
2005/06	830	896	4150	4635	<b>+485</b>
2006/07	830	1250	4980	5885	<b>+905</b>
2007/08	830	1243	5810	7128	<b>+1318</b>
2008/09	830	1028	6640	8156	<b>+1516</b>
2009/10	830	518	7470	8674	<b>+1204</b>
2010/11	830	673	8300	9347	<b>+1047</b>
2011/12	830	1012	9130	10359	<b>+1229</b>
2012/13	830	617	9960	10976	<b>+1016</b>
2013/14	920	725	10880	11701	<b>+821</b>
2014/15	920	943	11800	12644	<b>+844</b>
2015/16	920	1149	12720	13793	<b>+1073</b>
2016/17	920	912	13640	14705	<b>+1065</b>
2017/18	920	1048	14560	15753	<b>+1193</b>
2018/19	920	1165	15480	16890	<b>+1410</b>
2019/20	1086	1124	16566	18014	<b>+1448</b>

*Table One: Housing Delivery 2001/02 to 2019/20*

- 6.3** Not surprisingly Colchester has passed the Housing Delivery Test with a result of 122% and accordingly the Borough is required to apply a buffer of 5% opposed to the alternatives of a 20% and an Action Plan if the delivery rates had not been satisfactory. Confirmation of this is provided in a note from MHCLG attached in Appendix 1.

## 7 Windfall Allowance

7.1 Due to historic trends of windfall within the Borough, the Council will be applying a windfall allowance in line with paragraph 70 of the NPPF (2019) and the planning practice guidance. Although there is no universally used formula to account for the anticipated windfall several considerations have been taken account. The NPPF and PPG provide policy and guidance as summarised below:

- Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply
- Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.

7.2 Taking into account the above, the Council’s criteria for a site to be considered windfall is that it should not form part of a current or emerging allocation. There is no one approach to a windfall allowance methodology but it is reasonable to consider past windfall rates as a basis for the expectation of the levels of windfall that will come forward in the future. This approach is widely used and can aid in considering the likely windfall that will come forward in the future.

7.3 Table three below highlights the level of windfall the Council has seen completed in each of the last 5 years. The average over this time is 285 units per year. Windfall sites to accommodate 306 dwellings have already been identified for the 2020/21 monitoring period. The Position Statement published in April 2019 identified 403 units likely to be delivered on windfall sites. The fact that 399 units were actually delivered demonstrates the robustness of the Council’s trajectory. The delivery for 2019/20 is higher than in recent years and although 306 units have been identified for 2020/21 the Council considers it is appropriate to retain the same windfall allowance figure of 260 units per year for the 5 year supply. This figure has been used for several years and is supported by evidence of delivery. It has also been agreed as appropriate in appeal situations.

Year	2015/16	2016/17	2017/18	2018/19	2019/20	Average
Number of dwellings from windfall historically	328	248	207	243	399	285

*Table Three: Historic windfall completion*

7.4 Table four below includes figures taken from sites with approved planning applications that are yet to be completed that would meet the criteria of windfall. This can be termed as ‘known windfall’. It is important to note that these will not be double counted i.e.: included in the trajectory as a specific site and also used to justify an additional ‘windfall allowance’.

Year	Windfall Dwellings known to be in the trajectory
2020/21	306
2021/22	81
2022/23	11
2023/24	93
2024/25	19

- 7.5** The projected delivery of sites within the trajectory is based upon building control records and a dialogue with the site owners, agents and developers. On this basis, the Council considers that the windfall completions that are anticipated for the first year in the trajectory, 2020/2021, are likely to be similar to the projections as there is little opportunity for sites permissioned this year to be completed prior to the end of 2020/21 though some office to residential conversions could come forward. The figures for 2020/21 have been corroborated in most cases by site owners via phone call and confirmation emails. These are shown as site-specific allocations in the five-year supply and trajectory and no windfall allowance is included for year one (2020/21).
- 7.6** In recent years the number of windfall completions has increased, due in part to the office to residential conversions that are allowed under permitted development and an increase in student accommodation. Taking into account the recent level of windfall delivery, the predicted levels of windfall going forward is 260 dwellings per year on average. This is considered to be a conservative estimate when taking into account the anticipated further relaxation of permitted development by national government.
- 7.7** For years two through to five of the housing trajectory the exact completion year of sites is harder to project. Notwithstanding this a quantity of 510 dwellings that are known to meet the windfall definition are already included within the trajectory.

Year	Windfall Predicted	Known Windfall sites anticipated to be completed	Additional unknown windfall that can be applied
2020/21	306	306	0
2021/22	260	81	179
2022/23	260	11	249
2023/24	260	93	167
2024/25	260	19	241
Total	1346	510	836
<b>Total additional windfall to be applied</b>			<b>836</b>

- 7.8** The Council would expect that beyond the 510 windfall dwellings, on known sites, a further 836 dwellings will come forward within the last four years of the five year supply period from additional windfall that the Council is unaware of currently. This equates to about 209 units per year on average.

## 8 Five Year Supply Calculation

8.1 The table below illustrates the 5-year supply calculation for the district during the period between 2020/2021 through to 2024/2025.

<b>Housing Need OAHN</b>	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
<b>Housing Need Standard Methodology (SM)</b>	
Standard Method annual target	1078
Standard Method Target for 5 year period	5390
Standard Method Target for 5 year period with 5% buffer	5659
<b>Supply</b>	
Permissioned sites, existing and selected emerging allocations and windfall allowance	6108
<b>Total number of years' worth of housing supply including emerging allocations</b>	
Supply against SM with permissioned sites, existing allocations, windfall and selected emerging allocations	5.4

8.2 The calculation above demonstrates that the Council has a sufficient supply of deliverable housing to meet the 5-year requirement. A total of up to 5.4 years is deliverable within this period depending on the scenario adopted.

## 9 The Supply of Deliverable Sites

- 9.1** The NPPF and Planning Practice Guidance (PPG) identifies that to be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:
- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).
  - b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.
- 9.2** Accordingly this Position Statement is based on national policy and guidance. At a local level this is implemented as follows;
- 1. Sites of less than 10 units (not major development) with planning permission are considered deliverable unless there is clear evidence that homes will not be delivered within 5 years.
  - 2. All sites (regardless of size) that have detailed planning permission are considered deliverable unless there is clear evidence that homes will not be delivered within 5 years.
  - 3. Sites of 10 or more units with outline permission will only be included in the 5 year supply where there is clear evidence that they will be delivered within 5 years.
  - 4. Sites which are allocated in the adopted or emerging development plan will only be included in the 5 year supply where there is clear evidence that they will come forward within 5 years.
- 9.3** The Council uses a number of sources to inform the trajectory as detailed in the Monitoring section below. Lead in times and delivery rates have been reviewed on a number of major sites and assessed by local agents (see Appendix 4) to ensure the supply is realistic.
- 9.4** Every site within the 5 year supply either benefits from planning permission or is the subject of an existing application. There are many sites within the 5 year supply which are under construction and this is noted alongside each. These are considered deliverable.
- 9.5** Sites of less than 10 units have been treated as deliverable unless there is evidence that they are unlikely to come forward.
- 9.6** Sites of 10 or more which have detailed planning permission have for the most part already commenced and are considered deliverable.
- 9.7** Sites of 10 or more that benefit from outline planning permission have been scrutinised and particular attention has been given to whether they are likely to deliver housing units within 5 years. The sites are listed below;

1. Land north of Magdalen Street - 120 dwellings of which 60 are anticipated to be built within 5 years. The area is part of a wider area programmed for redevelopment, much of which is completed or underway. Planning permission was granted for 58 units in 2015. In accordance with the hybrid permission, 8 units have been completed and conditions were discharged for the remaining scheme in 2018. A revised full application is currently under consideration for 120 units in a redesigned scheme which is due to be considered by Planning Committee in June 2020. The developer is Inland Homes who have delivered schemes in the borough quickly and to a high standard. They have advised their delivery timeline which is reflected in the trajectory.
2. Halstead Road, Eight Ash Green – Outline planning permission was granted in 2019 subject to a S106 agreement (ref. 171529). The legal agreement has been completed and a national housebuilder is engaged on a detailed scheme for the site through a PPA. An application to vary the access details was approved in April 2020 (ref. 192841). The scheme is for 150 units which are expected to be delivered within 5 years, as stated by the applicants in their planning submission. The site is allocated in the adopted Eight Ash Green Neighbourhood Plan. Given the allocation in the Neighbourhood Plan and the involvement of a national housebuilder who is familiar with working in Colchester there is no reason to believe this cannot proceed quickly to delivery.
3. Fiveways Fruit Farm – Outline permission granted in 2019 for 442 dwellings, 350 of which are expected to be built within 5 years. This is an existing allocation in the adopted Local Plan. The site is being brought forward by two local development companies (Mersea Homes and Hills Residential) who have built out many small, medium and large sites in the borough and surrounding areas. The site benefits from outline planning permission with a smaller Phase 1 having the benefit of full permission and under construction to enable a start on site and to move seamlessly to the next part of the development. The outline application includes details of access to enable site works to commence immediately while reserved matters are sought. This site was always expected to deliver later in the plan period because of mineral working on the adjacent site. Given the previous record of development in the borough and the two companies involved there is no reason why this will not deliver within the 5 year period. The timescales shown in the trajectory are based on advice from them and is not unreasonable given previous builds including Chesterwell where Mersea Homes are lead developer and delivering approximately 150 units per year. The Companies have previously worked together on sites in the borough as well as independently. This approach allows them to proceed quickly even where they have a number of other developments under way. An email detailing delivery and the lack of constraints on the site is attached in Appendix 4.
4. Brierley Paddocks, West Mersea – Outline planning permission has been granted and a s106 agreement completed. The applicants are keen to progress the reserved matters and to commence construction on site. They have entered into a Planning Performance Agreement (PPA) which sets out their timeline. The details are as follows;
  - a. Inception meeting – 30 March 2020 (completed)
  - b. Submission of Reserved Matters – 30 April 2020
  - c. Committee consideration July 2020
  - d. Discharge of conditions – Autumn
  - e. Commence on site – early 2021.

There is no reason why this site will not deliver. The developer has an option on the site and has confirmed there are no legal, physical or viability constraints that would prevent the

scheme coming forward quickly. City & Country are locally based but have experience of a range of schemes across the country including heritage projects, regeneration and new build properties. They are well known to the Council having converted one of our former office building in the Town Centre.

**9.8** There are two sites within the trajectory that are allocations in the Adopted Local Plan and expected to come forward in the 5 year period. Each of these is detailed below to demonstrate why they are now considered to be deliverable;

1. Essex County Hospital – 108 units. A full planning application is under consideration and is expected to be determined in July 2020. There are no outstanding matters (ref. 192828). The applicants and their agents worked through a Planning performance Agreement to agree details prior to submission. This included public consultation. They have been working with planning officers and English Heritage on the regeneration project that will retain and restore the main hospital building and other heritage buildings on the 4.5 acre site. The hospital is no longer in use and the County Council are keen to start work because of anti-social behaviour in and around the site which is now surrounded by hoardings. A delivery programme submitted by agents for the scheme (Strutt & Parker) shows the following;
  - Autumn 2019 – application submission
  - Spring 2020 – application approved
  - Autumn 2020 – archaeological works and discharge of conditions
  - Spring 2021 – construction begins.
2. Land adjacent Weston Homes, Hawkins Road, Colchester - 282 Student Units (113 dwelling equivalent). There is a current planning application on the site (ref. 190335). Given the high demand for student accommodation in this area close to the University there is no reason that this site will not deliver new homes in the 5 year period. There are a number of sites in Hawkins Road currently being developed reflecting the regeneration of the area.

**9.9** The final element of the supply comprises sites in the emerging Local Plan. A number of emerging allocated sites have already been granted planning permission. Those that have full planning permission are included as deliverable and those with outline permission that are included within the 5 year supply are detailed at 9.7 above. Details of the other sites included in the 5 year supply are included below;

1. Rugby Club, Mill Road, Colchester – This a Council owned site and subject to a current hybrid planning application (ref. 190665) and a full application for early delivery of infrastructure, a renewable energy centre and heat distribution network which is funded through the Housing Infrastructure Fund (200079). The site is being promoted and developed by the Councils commercial development company who have experience of smaller scale housing development as well as commercial development. The scheme is outlined in the adopted Myland and Braiswick Neighbourhood Plan and has been the subject of extensive public consultation over the years leading up to submission. 30% of new homes will be affordable housing. 350 units of the 560 are expected to be delivered by December 2024. The detailed programme which is commercially sensitive shows that 260 of these will be delivered by another housebuilder following sale of the land at the end of 2020. The extra care facility is also expected to be developed by a third party developer. A delivery timetable is attached as Appendix 3.

2. Land at Berechurch Hall Road is included as an allocation in the Emerging Local Plan. The land subject to the allocation is in two ownerships: the smaller part being owned by developers Harding Homes. They have submitted a full application (ref. 191093) for 32 units which is expected to be determined in June 2020 following design revisions. Only this part of the site is considered to be deliverable within the 5 year period. They have confirmed that the site is viable and deliverable and that there are no constraints to its delivery.

**9.10** Every site within the 5 year supply either benefits from planning permission or is the subject of an existing application.

**9.11** Because the Council takes a cautious approach to its 5 year supply there are a number of other sites that have been excluded from the supply though they could have been included. In addition to the sites included in the trajectory there are sites at an advanced stage of planning that will provide contingency and flexibility. These account for an additional 279 units. The details are as follows;

1. Priory Walk, Colchester – current full application (ref. 192365) for 18 residential units above an established shopping centre. The site is within a conservation area and positive discussions are underway to achieve an improved design. This will promote and support the development of under-utilised land and buildings, by utilising space above shops.
2. Pico Wharf, Whitehall Road – current full application (192276) incorporating a rooftop extension and reconfiguration to provide 10 units. A SUDS report has now been submitted to address concerns raised by the LLFA. The report is considered to address their concerns and the application will be delegated as soon as a response is received.
3. Bridge House, Hythe Quay, Colchester – current application for 18 units. This site previously had planning permission but the revised scheme has been submitted to ensure delivery. Planning application ref. 192441.
4. International House, Moss Road, Colchester – revised scheme approved May 2020 to address internal space standards and allow delivery. Planning application ref. 200303 for 10 extra units.
5. 32 Colchester Road West Bergholt - a planning application (ref. 181458) is at an advanced stage with the legal agreement being worked up. The site is an allocation within the recently adopted Neighbourhood Plan. It will deliver 13 units.
6. Colchester Road, West Bergholt – full application for 41 units (191917). Amended plans have been submitted for this site which is within the Neighbourhood Plan housing allocation. The scheme follows discussions with the Parish Council and is due to be determined shortly.
7. Chesterwell - 160 units are to be brought forward from later in the plan period because of permission for a separate southern access. The developer has confirmed that they plan to deliver these as a separate sales unit on top of the development to the north of the site. All 160 units are expected to be delivered in the 5-year period, in addition to the 148 units per year shown in the trajectory. The northern part of the site is being delivered by Countryside and Mersea Homes with 2 sales outlets. 160 additional units.

8. Factory Hill, Tiptree – planning permission has been granted for a revised scheme which will deliver an additional 9 units. The development has already commenced (ref. 191414).

**9.12** Appendix 2 includes the detailed 5 year housing land supply.

# 11 Monitoring

- 11.1** This housing land supply statement and accompanying housing trajectory has been produced based on information from a number of sources to reflect the multifaceted nature of housing supply and delivery.
- 11.2** In accordance with the PPG the trajectory in Appendix 2 provides details of all sites that are expected to deliver new housing units in the next five years. For each site, details are included of the current planning status, the number of homes completed, homes under construction and those expected to be built, as well as the expiry date of permissions where applicable, and whether or not sites are counted as windfall. For sites which do not benefit from full planning permission additional information and clear evidence is included in this report which demonstrates that there will be housing completions on site within 5 years, including current planning status, timescales and progress. The report also sets out the 5 year land supply calculation and identifies the appropriate buffer (5%), and that there is no shortfall to address.
- 11.3** Those sites where additional information is required to demonstrate that housing completions will begin on site within 5 years, are detailed in the report and this position statement includes information about:
- progress being made towards the submission of an application;
  - progress with site assessment work; and
  - any relevant information about site viability, ownership constraints or infrastructure provision.
- 11.4** The PPG also makes clear that local planning authorities may need to develop a range of assumptions and benchmarks to help to inform and test assessments. Assumptions can include lapse/non-implementation rates in permissions, lead-in times and build rates. Accordingly the Council has prepared the table below to demonstrate lead in times and delivery across a number of sites in the borough. This uses clear evidence and demonstrates actual performance on comparable sites and is used to form assumptions to test delivery information or where there is no information available from site owners/developers to inform the assessment. There are very few sites in Colchester which lapse or are not implemented.

Development	Developer	Outline PP	Reserved Matters/Full	Discharge of Conditions	Commencement	1 <sup>st</sup> Completion	Build Rate (Ave.)
Chesterwell (1600 dwellings)	Mersea Homes	July 2014	March 2015	2014 onwards	2015	2016	150
	Countryside	July 2014	October 2015	2014 onwards	2015	2016	
Severalls Phase 1 (125 units)	Crest Nicholson	2010	2011	2011	Nov 2011	2012/13	35-63
Severalls Phase 2 (730 dwellings)	Taylor Wimpey	2015	April 2016	2015 onwards	2016	2017	98
	Bloor Homes	2015	April 2016	2015 onwards	2016	2017	
	Bellway	2015	April 2016	2015 onwards	2016	2017	
Wyvern Farm (358 dwellings)	Persimmon & Cala Homes	N/A	July 2015	2015/16	2016	2017	89-123
Stanway railway sidings (123)	Hopkins	N/A	July 2013	2014-16	2016	2016/17	58
Rowhedge Port (170 units)	Bloor Homes	N/A withdrawn	August 2015	2016/17	2017	2018	46
ECC depot, Park Rd (40 units)	Redrow	2013	June 2014	Sept. 2014	2014	2015	29 (1 yr build)
	Harding Homes	N/A	Dec 2014	2015	2016	2017	11
Axial Way (88 units)	Persimmon	N/A	March 2017	2017	2017	2018	88 (1 yr build)
Betts Factory (127 units)	Bellway	2013	2014	2014	2015	2016	50 (CBC part only)
Chapel Road, Tiptree (39 units)	Inland Homes	N/A	2016	2016/17	2017	2018	39 (1 yr build)
Factory Hill, Tiptree (126)	Crest Nicholson		2013	2016/17	2017	2018	
Avon Way (152 student units)	Beyond the Box	N/A	2018	2018/19	2019	Sept. 2019	152 dpa
University of Essex (643 student units)	University of Essex	N/A	July 2016	2017/18	2017	Sept 2018	643 – 1 yr build

- 11.5** In respect of housing supply the principle sources of information are residential planning permissions (including sites undergoing the planning application process, sites benefiting from extant permission, and sites with lapsed permission) and strategic residential allocations contained in the adopted and emerging Local Plans. Future sources of information may include the Brownfield Land Register and any future Strategic Land Availability Assessment.
- 11.6** Housing delivery information, specifically completion records, is gathered from Local Authority Building Control (LABC) records, which are available internally within the Council. In addition to LABC records, a large number of sites are inspected by the National House Building Council (NHBC) which compiles its own records and reports building regulations compliance to Colchester Borough Council.
- 11.7** Site specific anticipated delivery rates on sites under the control of a developer, land promoter or other such interested party are, wherever possible, gathered through direct contact with those parties. The Council contacts applicants and developers regularly to ensure the information is as accurate as possible. The Council has also asked local agents for their view on the housing trajectory in accordance with the PPG (Paragraph: 023 Reference ID: 3-023-20140306).
- 11.8** The anticipated delivery rates of sites without discernible promotion, or where contact has not been possible, are calculated based on the best judgement of the Council and assumptions which take into account whatever relevant background and site-specific information is available. Such sites are rarely included in the 5-year supply, unless there are exceptional circumstances to justify it.
- 11.9** In addition to these sources, the Council conducts site visits to gauge the progress of residential development sites and verify building control records where they are present, and supplement them where those records are not available.
- 11.10** The Council accepts that assessments need to be realistic and this Annual Position Statement includes the following:
- for sites with detailed planning permission, details of numbers of homes under construction and completed each year;
  - for small sites, details of their current planning status and record of completions and homes under construction by site;
  - for sites with outline consent or allocated in local plans, information and clear evidence that there will be housing completions on site within 5 years, including current planning status, timescales and progress towards detailed permission;
  - permissions granted for windfall development by year and how this compares with the windfall allowance;
  - total net completions from the plan base date by year; and
  - the 5 year land supply calculation clearly indicating the 5% buffer and the number of years of supply.

- 11.11** The majority of sites are delivering at the projected rate which is to be expected given the regular contact with housebuilders and agents. Only net completions are included so the few demolitions that are involved are not identified i.e. where one dwelling is being demolished and three new homes built only two are shown in the trajectory. As detailed above few sites are not implemented in Colchester.
- 11.12** The inclusion of a limited number of sites in the emerging Local Plan reflects previous appeals and judgements. The Court of Appeal delivered judgment in *St Modwen v SSCLG & ERYC 2017* concerning the meaning of the phrase “deliverable sites” in the context of the requirement in paragraph 47 of the National Planning Policy Framework for a five-year housing land supply. Lord Justice Lindblom said that, to be deliverable in this sense, a site has to be capable of being delivered within five years, but it does not need to be certain or probable that the site actually will be delivered within five years. Sites can be included in the five year supply if the likelihood of housing being delivered on them within the five year period is no greater than a realistic prospect; just because a particular site is capable of being delivered within five years, it does not mean that it necessarily will be. In his view, there is a distinction between the identification of deliverable sites for the purpose of showing a supply of specific deliverable sites sufficient to provide five years’ worth of housing against an authority’s requirements and the expected rate of delivery to be reflected in a housing trajectory. The Judge also noted that the NPPF recognises that local planning authorities do not control the housing market.
- 11.13** The High Court case of *Wainhomes (South West) Holdings v SSCLG 2013* clarified that inclusion of a site in an emerging Local Plan is at least some evidence that the site is deliverable. The Judge, Stewart-Smith J surmised that a site’s deliverability is reliant on the evidence to support the proposed allocation on a site-by-site basis. The weight to be attached to the quality of the authority's evidence base is a matter of planning judgment for an inspector.
- 11.14** The NPPF does not exclude consideration of emerging allocations in the criteria for deliverable and the Council considers that this is intentional when taking into account the use of closed lists elsewhere in the NPPF. Emerging allocations have only been included within the five year supply where the Council believes that the sites are deliverable using evidence obtained. All emerging sites within the 5-year trajectory are subject to early discussions, planning applications and PE’s/PPA’s and there are no known insurmountable constraints that will affect deliverability. Notwithstanding this, the Council is not reliant upon emerging allocations to illustrate a sufficient 5-year supply. They have however been included within the trajectory to reflect what the Councils considers to be the most accurate picture of delivery.
- 11.15** Due to the live nature of this document, it is subject to change following any subsequent changes to the housing land supply and/or housing delivery position. Therefore whilst the published statement is correct at the relevant date stated in the document (as of the 1<sup>st</sup> of April 2020), it is subject to change. Future updates will be published on a regular basis to ensure that an accurate representation of the Council’s land supply position is available to interested stakeholders.

## Appendix 1 – Technical Note – Stantec and MHCLG

**Job Name:** Colchester Local Housing Need (*amended to correct or error in the affordability uplift*)

**Job No:** 43007

**Note No:** 1

**Date:** 07 April 2020

**Prepared By:** R Pestell

**Subject:** Local Housing Need

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### 1. Introduction

- 1.1** Colchester Borough Council have asked Stantec to independently calculate the minimum Local Housing Need figure going forward to inform their Annual Position Statement. In addition, we explain how the Housing Delivery Test result is calculated.

### 2. Standard Method

- 2.1** Using the Standard Method, the minimum Local Housing Need figure for 2020 onwards is 1,078 homes per year. This is the figure that should be used as the starting point in the five-year land supply calculation.

- 2.2** This is derived using the three-stage approach set out in the latest National Planning Practice Guidance. We use the 2014-based household projections to calculate the growth over the ten-year period 2020-2030 and the latest 2019 Affordability Ratio which was released in March 2020. The results for each step are set out below:

*Step 1: setting the baseline*

- 2.3** The annual average growth is 801, using the 2014-based household projections over the ten-year period 2020-2030.

*Step 2: adjusting for affordability*

- 2.4** The 2019 affordability ratio is 9.54 which results in an affordability adjustment of 0.346. Multiplying the step 1 figure of 801 by the adjustment factor calculation  $[801 \times (1+0.346)]$  results in an uncapped figure of 1,078 (rounded).

*Step 3: capping the increase*

- 2.5** As at 1st April 2018 the local plan was over five years old, the cap would be applied to the baseline using 2014 based household projections (resultant figure from Step 1). However, as the affordability adjustment (Step 2 figure) is less than a 40% uplift it is not necessary to apply the cap and the figure from Step 2 is used.

### 3. Understanding the Housing Delivery Test Result

- 3.1. The Housing Delivery Test (HDT) 2019 identifies the annual Local Housing Need figure as 1,069 for the year 2018/2019. Explanation for this figure has been sought and the reason given is because it uses the ten-year period 2018-2028 and applies the 2017 Affordability Ratio, as issued, and not the backward revised figures released with each subsequent update. The 2019/20 HDT requirement figure will be calculated using the ten years 2019-2029 and the 2018 Affordability Ratio. The methodology for the calculation is set out in more detail in the attached paper from MHCLG at Appendix A.

## Appendix A: Response from MHCLG 27 March 2020

### Homes Required

Paragraphs 12 to 15 of the Housing Delivery Test Rule Book set out how the homes required is calculated. In summary, this is largely dependent on the age of the plan during any given monitoring period, household growth projections in years 2016/17 and 2017/18, and local housing need in 2018/19, details are set out below.

### *Plan Information*

- There is no 'up to date' plan for Colchester (i.e. no local plan adopted in the last 5 years)

Source: Delta return submitted to MHCLG, then verified by MHCLG checking plan data

### *Calculating Local Housing Need using the standard method*

Local Housing Need is calculated using 3 steps. More information on how Local Housing Need is calculated is available in Planning Practice guidance<sup>1</sup>. The Housing Delivery Test Technical Note [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/865156/HDT\\_Technical\\_Note\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/865156/HDT_Technical_Note_2019.pdf) sets out how this applies to calculating HDT for 2018/19.

Step 1 sets a baseline using 2014 based national household growth projections. Projected average annual household growth over a 10 year period from 2018 to 2028 is **819**.

Step 2 adjusts the baseline calculated in step 1 based on the affordability of the area. The 2017 affordability ratio is 8.89 (rounded) which results in a affordability adjustment of **0.31**. Multiplying the step one figure of 819 by the affordability adjustment (819 x 1.31) results in an uncapped figure of **1,069**

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<sup>1</sup> <https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments>

Step 3 caps the level of any increase a local authority can face based on the status of the local plan.

As at 1st April 2018 the local plan was over five years old, the cap would be applied to the baseline using 2014 based household projections (resultant figure from Step 1). However, as the affordability adjustment (Step 2 figure) is less than a 40% uplift it is not necessary to apply the cap and the figure from Step 2 is used.

### **Calculating the requirement**

For all three years of the test, household growth or Local Housing Need (2018/19)<sup>2</sup> is used as the adopted plan for the area was older than 5 years old, a breakdown of this is set out (next page). Please note, numbers may not sum due to rounding.

<b>Year</b>	<b>Plan number</b>	<b>Household growth/LHN</b>	<b>Lower of</b>
2016/17	N/A	870	870
2017/18	N/A	831	831
2018/19	N/A	1,069	1,069
<b>Total</b>			<b>2,770</b>

### **Homes Delivered**

Paragraphs 6 to 11 of the Housing Delivery Test Rule Book the homes delivered is calculated. In summary, this uses Housing supply: net additional dwellings statistics<sup>3</sup> and an adjustment for student and other communal accommodation. Please note, numbers may not sum due to rounding.

As shown in paragraph 11 the Technical Note, some other adjustments are made to account for the delivery in national park areas during the 3 year period, where the homes required includes part of the national park. This is because the Housing Delivery Test does not apply to National Park areas.

The relevant figures for your authority are shown below:

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<sup>2</sup> Household projections as set out in table 1 of the housing delivery test rule book – 2012 household projections for year 2016/17, and 2014 household projections for 2017/18. Local Housing Need for 2018/19.

<sup>3</sup> [www.gov.uk/government/collections/net-supply-of-housing](http://www.gov.uk/government/collections/net-supply-of-housing)

<b>Year</b>	<b>Net Additional Dwellings</b>	<b>National parks adjustment</b>	<b>Student accommodation adjustment</b>	<b>Adjusted net additions</b>
2016/17	912	n/a	0	912
2017/18	1,048	n/a	0	1,048
2018/19	1,175	n/a	257	1,432
<b>Total</b>				<b>3,392</b>

643 net student communal bed spaces divided by 2.5 national average 257.2 dwellings freed up

**Final HDT result = 122%**

<b>Total delivery</b>	<b>Total requirement</b>	<b>HDT result</b>
<b>3,392</b>	<b>2,270</b>	<b>122%</b>

If you identify numbers that you were not expecting in the above data, please specify which figures this relates to and the figures you believe should be used. To support this, please also send weblinks to documentation where these figures are referenced.

## Appendix 2 – 5 Year Supply

# 5 Year Housing Trajectory

Planning Reference	Status	Windfall	Permissi on Type	Site location	Dwelli ngs	Dwel lings Rem ainin g	2020/21	2021/22	2022/23	2023/24	2024/25
190288	Not Started	Yes	Full	56 BERECHURCH HALL ROAD	4	4	4				
180045	Commence d	No	Full	COWDRAY CENTRE, MASON ROAD, COLCHESTER	262	262		80	80	52	50
180546	Not Started	Yes	Full	CASTLE COURT, ST PETERS STREET, COLCHESTER	13	13		13			
151004	Commence d	Yes	Full	FMR ODEON CINEMA, CROUCH STREET, COLCHESTER	54	54					54
160903	Commence d	Yes	Full	113 – 115 CROUCH STREET, COLCHESTER	1	1	1				
162850	Not Started	Yes	Full	ABBEYGATE TWO, WHITEWELL ROAD, COLCHESTER	8	8		8			
170424	Commence d	Yes	Full	FMR CO-OP, LONG WYRE STREET, COLCHESTER	24	24	24				
172306	Not Started	Yes	Full	12 – 14 EAST HILL, COLCHESTER	1	1	1				
181064	Commence d	Yes	Full	42 SMYTHIES ROAD, COLCHESTER	1	1	1				
182163	Not Started	Yes	Full	2 – 3 TRINITY STREET, COLCHESTER	1	1	1				

Planning Reference	Status	Windfall	Permissi on Type	Site location	Dwelli ngs	Dwel lings Rem ainin g	2020/21	2021/22	2022/23	2023/24	2024/25
182609	Commence d	Yes	Full	32 CROUCH STREET, COLCHESTER	14	14	14				
182647	Commence d	Yes	PD	14 HEADGATE STREET, COLCHESTER	54	54	54				
170994	Not Started	Yes	Full	48 LEXDEN ROAD, COLCHESTER	2	2			2		
171871	Not Started	Yes	Full	4 ST BOTOLPHS STREET, COLCHESTER			3				
171972	Not Started	Yes	Full	26 ST JOHNS STREET, COLCHESTER	5	5	5				
172418	Commence d	Yes	Full	1A ST BOTOLPHS STREET, COLCHESTER	3	3		3			
172443	Not Started	Yes	Full	35 EAST STREET, COLCHESTER	1	1	1				
173149	Not Started	Yes	Full	DUCHESS HOUSE, EAST STREET, COLCHESTER	1	1		1			
182120	Not Started	No	Full	LAND AT QUEEN STREET, CULTERAL QUARTER	192	192				100	92
152493/180694	Commence d	No	O/RM	SILVERTON AGGREGATES SITE, HAWKINS ROAD, COLCHESTER	37	37	37				
181309	Commence d	No	Full	ELMSTEAD ROAD/SWANCLOSE, COLCHESTER	61	61	61				
152303	Commence d	Yes	Full	166 ST ANDREWS AVENUE, COLCHESTER	1	1	1				
160224	Commence d	Yes	Full	SPORTS GROUND, BROMLEY ROAD, COLCHESTER	12	12	12				
170979	Not Started	Yes	Full	128 FOREST ROAD, COLCHESTER	1	1	1				

Planning Reference	Status	Windfall	Permissi on Type	Site location	Dwelli ngs	Dwel lings Rem ainin g	2020/21	2021/22	2022/23	2023/24	2024/25
192733	Not Started	Yes	Full	SCARFE WAY, COLCHESTER	6	6	6				
192777	Not Started	Yes	Full	BUFFET WAY, COLCHESTER	6	6		6			
192610	Not Started	Yes	Full	HAWKINS ROAD, COLCHESTER	8	8		8			
180529	Commence d	Yes	Full	148 ST ANDREWS AVENUE, COLCHESTER	1	1	1				
151666/182123	Not Started	Yes	Full	REAR OF 310-318 IPSWICH ROAD, COLCHESTER	2	2				2	
162249	Commence d	Yes	Full	WHITEHOUSE FARM, WEST BERGHOLT	1	1	1				
171441	Not Started	Yes	Full	1 WOOD LANE, FORDHAM HEATH	1	1		1			
171529	Not Started	No	Outline	HALSTED ROAD, EIGHT ASH GREEN	150	150		50	50	50	
172305	Commence d	Yes	Full	3 SPRING LANE WEST, BERGHOLT	3	3	3				
180152	Not Started	Yes	Full	FRIARS FARM BARN, DAISY GREEN, EIGHT ASH GREEN	1	1	1				
181350	Not Started	Yes	Full	1 SUSSEX ROAD, COLCHESTER	1	1		1			
181630	Not Started	Yes	Full	114 BRAISWICK, COLCHESTER	5	5		5			
182084	Not Started	Yes	Full	SLINDON COTTAGE, PLUMMERS LANE FORDHAM	1	1	1				
183017	Not Started	Yes	Full	144 BRAISWICK, COLCHESTER	1	1			1		
190094	Not Started	Yes	Full	87 ALBANY ROAD, WEST BERGHOLT	1	1	1				

Planning Reference	Status	Windfall	Permissi on Type	Site location	Dwelli ngs	Dwel lings Rem ainin g	2020/21	2021/22	2022/23	2023/24	2024/25
183024	Not Started	Yes	Full	48 LEXDEN ROAD, WEST BERGHOLT	1	1	1				
190151	Not Started	Yes	Full	TURKEY COCK LANE, EIGHT ASH GREEN	1	1		1			
192561	Not Started	Yes	Full	WEMADIT, 58 CHITTS HILL	1	1			1		
191409	Not Started	Yes	Full	NAYLAND ROAD, WEST BERGHOLT	3	3		3			
192671	Not Started	Yes	Full	HARDINGS CLOSE, ALDHAM	4	4		4			
192806	Not Started	Yes	Full	FOXES LANE, EIGHT ASH GREEN	1	1	1				
181624	Not Started	Yes	Full	COOKS HALL ROAD, WEST BERGHOLT	2	2		2			
100502	Commence d	No	Full	FORMER SEVERALLS HOSPITAL PHASE 2, COLCHESTER	998 Both Phase	392	106	106	87		
150473	Commence d	No	Full	CHESTERWELL ( BOTH OUTLETS)	1600	999	148	148	148	148	145
162399	Not Started	Yes	Full	SOUTH OF CAMBIAN FAIRVIEW, BOXTED ROAD, COLCHESTER	26	26	13	13			
171248	Not Started	Yes	Full	27 THREE CROWNS ROAD, COLCHESTER	1	1			1		
181827	Not Started	Yes	Full	16 TURNER ROAD, COLCHESTER	1	1	1				
192959	Not Started	Yes	Full	229 BERGHOLT ROAD, COLCHESTER	1	1	1				
150177	Not Started	No	Full	CHAPMANS FARM, NAYLAND ROAD, COLCHESTER	27	27				27	
173017	Not Started	No	Full	GARRISON DEVELOPMENT – H (SERGEANTS MESS)	8	8	8				
170621	Commence d	No	Full	GARRISON DEVELOPMENT- K1 (AFFORDABLE HOUSING)	25	25		13	12		
190043	Hybrid	No	Full	NORTH OF MAGDALEN STREET, COLCHESTER	120	120				60	60

Planning Reference	Status	Windfall	Permissi on Type	Site location	Dwelli ngs	Dwel lings Rem ainin g	2020/21	2021/22	2022/23	2023/24	2024/25
152705	Expired	Yes	Full	145A – 151 MAGDALEN STREET, COLCHESTER	6	6					
172186	Not Started	Yes	Full	8A MAGDALEN STREET, COLCHESTER	1	1	1				
180116	Not Started	Yes	Full	79 MAGDALEN STREET, COLCHESTER	1	1	1				
181281	Commence d	Yes	Full	FMR BUS DEPOT, MAGDALEN STREET, COLCHESTER	101	101	101				
182342	Not Started	Yes	Full	192 -220 MERSEA ROAD, COLCHESTER	1	1	1				
182528	Commence d	Yes	Full	LAND R/O IRVINE ROAD, COLCHESTER	6	6	6				
170331/171316	Not Started	Yes	Full	22-30 SOUTHWAY, COLCHESTER	15	15	15				
163197	Commence d	No	Full	RISING SUN PH & WAREHOUSES, HYTHE, STATION ROAD	27	27				27	
162395	Not Started	Yes	Full	3 – 4 STANDARD ROAD, COLCHESTER	1	1	1				
163060	Not Started	Yes	Full	38 ROWHEDGE ROAD, COLCHESTER	1	1			1		
172115	Not Started	Yes	Full	LAND BETWEEN 137 & 138 HYTHE HILL, COLCHESTER	1	1	1				
172355	Not started	Yes	Full	19A DARCY ROAD, COLCHESTER	1	1			1		
190753	Not Started	No	Full	FORMER ROWHEDGE PORT, ROWHEDGE	19	19			19		
190106	Commence d	No	Full	32 BALLANTYNE DRIVE, COLCHESTER	37	37	37				
170999	Not Started	Yes	Full	185A SHRUB END ROAD, COLCHESTER	1	1		1			
171325	Commence d	Yes	Full	HEATH LODGE, 11 GEATH ROAD, STANWAY	5	5	5				
173350	Not Started	Yes	Full	8 QUEEN ELIZABETH WAY, COLCHESTER	1	1		1			

Planning Reference	Status	Windfall	Permissi on Type	Site location	Dwelli ngs	Dwel lings Rem ainin g	2020/21	2021/22	2022/23	2023/24	2024/25
182491	Not Started	Yes	Full	1 HAZELL AVENUE, COLCHESTER	1	1		1			
190522	Not Started	No	Full	GOSBECKS PHASE 2, COLCHESTER	144	144		44	50	30	20
151086	Commence d	Yes	Full	BENTLEIGH COURT, GREENSTEAD ROAD, COLCHESTER	1	1	1				
162925	Not Started	Yes	Full	57 DUNTHORNE ROAD, COLCHESTER	1	1	1				
182021	Not Started	Yes	Full	17 DILBRIDGE ROAD, COLCHESTER	1	1	1				
172057	Commence d	Yes	Full	FORMER M & F WATTS	8	6	6				
VARIOUS	Commence d	No	Full	LAKELANDS	254	147	37	37	37	36	
180873	Commence d	No	Full	DYERS ROAD, COLCHESTER (MERSEA HOMES)	59	57	27	30			
Pending	N/A	No	Outline	FIVEWAYS FRUIT FARM, STANWAY	442	442		50	100	100	100
171569	Commence d	Yes	PD	DUGARD HOUSE, PEARTREE ROAD, COLCHESTER	34	34	34				
181948	Not Started	Yes	Full	SHAW PARK, MALDON ROAD, STANWAY, COLCHESTER	1	1	1				
172272	Not Started	No	Full	LAND R/O FIELD HOUSE, DYERS ROAD, STANWAY, COLCHESTER	35	35			17	18	
172049	Not Started	Yes	Full	CHITTS HILL, STANWAY	100	100		40	40	20	
160696	Commence d	No	Full	WYVERN FARM, LONDON ROAD, STANWAY	358	84	64	20			
190700	Not Started	Yes	Full	2 WINSTREE ROAD, STANWAY	2	2		2			
181859	Not Started	No	Full	WYVERN FARM, LONDON ROAD, STANWAY Phase 2	100	100		40	60		
192329	Not Started	Yes	Full	FMR VILLAGE HALL, SCHOOL LANE, GREAT WIGBOROUGH	2	2					2

Planning Reference	Status	Windfall	Permissi on Type	Site location	Dwelli ngs	Dwel lings Rem ainin g	2020/21	2021/22	2022/23	2023/24	2024/25
171190	Not Started	Yes	Full	33 LONDON ROAD, MARKS TEY, COLCHESTER	1	1		1			
171345	Not Started	Yes	Full	GREEN FARM, THE STREET, SALCOTT	1	1			1		
171511	Not Started	Yes	Full	68 – 70 LONDON ROAD, COPFORD	1	1			1		
180042	Not Started	Yes	Full	CHESTNUT FARM, ABBERTON ROAD, LAYER DE LA HAYE	4	4		4			
182272	Not Started	Yes	Full	GREEN FARM, THE STREET, SALCOTT	1	1	1				
182308	Not Started	Yes	Full	PHIPPS FARM LOWER ROAD, LAYER BRETON, COLCHESTER	1	1		1			
171251	Not Started	Yes	Full	MCCREADIES GARAGE, SMYTHES GREEN, LAYER MARNEY	5	5					5
172425	Not Started	Yes	Full	LONE ASH, ABBERTON ROAD, LAYER DE LA HAYE	1	1			1		
172597	Not Started	Yes	Full	ST CHLOE, ABBERTON, LAYER DE LA HAYE	1	1	1				
180174	Not Started	Yes	Full	BUMBE BEE FARM, LAYER BRETON HILL, COLCHESTER	2	2	2				
171774/173355	Not Started	No	Full	19 KINGSMERE CLOSE, WEST MERSEA	1	1			1		
160149	Commence d	Yes	Full	FORMER LION PUBLIC HOUSE, MERSEA ROAD, LANGENHOE	1	1	1				
170168	Not Started	Yes	Full	16 COAST ROAD, WEST MERSEA	1	1	1				
171564	Not Started	Yes	Full	FLAT THREE HALL BARN, HIGH STREET, WEST MERSEA	1	1	1				
171783	Not Started	Yes	Full	PETE HALL, COLCHESTER ROAD, PELDON	1	1	1				

Planning Reference	Status	Windfall	Permissi on Type	Site location	Dwelli ngs	Dwel lings Rem ainin g	2020/21	2021/22	2022/23	2023/24	2024/25
172601	Not Started	Yes	Full	TWO BARFIELD, WEST MERSEA	1	1	1				
173168	Not Started	Yes	Full	OXLEY HOUSE FRUIT FARM	1	1		1			
171774/173355	Not Started	No	Full	19 KINGSMERE CLOSE, WEST MERSEA	1	1			1		
160551	Commence d	No	Full	ROWHEDGE WHARF, FORMER ROWHEDGE PORT, ROWHEDGE	86	40	20	20			
170997	Commence d	No	Full	HILL FARM, BOXTED	36	26	10	16			
160906	Commence d	Yes	Full	HORKESLEY PARK, GREAT HORKESLEY	22	22	22				
170069	Not Started	Yes	Full	JANKES FARM BARN, JANKES GREEN ROAD, WAKES COLNE	1	1		1			
171029	Not Started	Yes	Full	ORCHARD HOUSE, LAMBERTS LANE, GREAT TEY	1	1			1		
171172	Not Started	Yes	Full	WEST END GARAGE, HIGH STREET, DEDHAM	1	1		1			
171412	Not Started	Yes	Full	POPLARS, CAGE LANE, BOXTED	1	1	1				
171595	Not Started	Yes	Full	HIGHBURY, EAST LANE, DEDHAM, COLCHESTER	1	1		1			
180051	Not Started	Yes	Full	LAND EAST OF CARTERS HILL, BOXTED	1	1		1			
180070	Not Started	Yes	Full	BACON LANE, CHAPPEL	1	1		1			
180078	Not Started	Yes	Full	ALDHAM HALL FARM, BROOK ROAD, ALDHAM	1	1			1		
181906	Not Started	Yes	Full	NOAKES FARM, STRAIGHT ROAD, BOXTED	4	4	4				

Planning Reference	Status	Windfall	Permissi on Type	Site location	Dwelli ngs	Dwel lings Rem ainin g	2020/21	2021/22	2022/23	2023/24	2024/25
182427	Not Started	Yes	Full	REDHOUSE FARM 2, REDHOUSE LANE, BOXTED	1	1	1				
182950	Not Started	Yes	Full	RAMS FARM ROAD, FORDHAM	1	1	1				
183113	Not Started	Yes	Full	UPP HALL FARM, SALMONS LANE, GREAT TEY	1	1	1				
182640	Not Started	Yes	Full	QUEENS HEAD, FORD STREET, ALDHAM	1	1	1				
181812	Not Started	Yes	Full	PUMP HOUSE, MOUNT BURES	1	1	1				
191830	Not Started	No	Full	SCHOOL ROAD (EAST), LANGHAM	46	46			20	26	
122134	Commenced	No	Full	GRANGE ROAD, TIPTREE	103	69	35	34			
130245	Commenced	No	Full	LAND ON NORTH EAST SIDE OF FACTORY HILL, TIPTREE	126	46	40	6			
173326	Not Started	Yes	Full	1 & 2 BOUNDARY COTTAGES, HALL ROAD, TIPTREE	2	2		2			
180136	Not Started	Yes	Full	86 CHURCH ROAD, TIPTREE	6	6	6				
182092	Not Started	Yes	Full	BARN ADJ. GATE HOUSE, CHERRY CHASE, TIPTREE	5	5	5				
170292	Commenced	Yes	Full	84 MALDON ROAD, TIPTREE	7	7	7				
170993	Not Started	Yes	Full	INWORTH GRANGE, GRANGE ROAD, TIPTREE	1	1		1			
170416	Not Started	Yes	Full	HIGHLANDS, KELVEDON ROAD, TOPTREE	1	1	1				
171250	Not Started	Yes	Full	63 NEWBRIDGE ROAD, TIPTREE	3	3	3				
190840	Not Started	Yes	Full	72 CHURCH ROAD, TIPTREE	1	1		1			
191343	Not Started	Yes	Full	10 SELDON ROAD, TIPTREE	1	1		1			

Planning Reference	Status	Windfall	Permissi on Type	Site location	Dwelli ngs	Dwel lings Rem ainin g	2020/21	2021/22	2022/23	2023/24	2024/25
171953	Not Started	Yes	Full	VINGT TROIS ( THE BASKET WORKS), GRANGE ROAD, TIPTREE	1	1	1				
192090	Commence d	No	Full	UNIVERSITY OF ESSEX, COLCHESTER	548	548		274		274	
180137	Not Started	Yes	Full	6 – 8 ANCHOR HILL, WIVENHOE	1	1	1				
190876	Not Started	Yes	Full	1 VALFREDA WAY, WIVENHOE	2	2	2				
191120	Not Started	Yes	Full	140 HIGH STREET, WIVENHOE	1	1	1				
192374	Not Started	Yes	Full	BERRY HOUSE, THE QUAY	1	1	1				
191700	Not Started	Yes	Full	17 QUEENS ROAD, WIVENHOE	1	1	1				
182138	Not Started	Yes	Full	36 THE CROSS, WIVENHOE	1	1	1				
190335	Not Started	Yes	Outline	LAND EAST OF HAWKINS ROAD	113	113			56	57	
192828	Not Started	Yes	Outline	FORMER ESSEX COUNTY HOSPITAL	120	120			60	60	
190665 & 200079	Not Started	Yes	Hybrid	MILL ROAD, COLCHESTER (EXTRA CARE)	180	180			60	60	60
190665	Not Started	Yes	Hybrid	RUGBY CLUB, MILL ROAD, COLCHESTER	350	350		50	100	100	100
191093	Not Started	Yes	Full	LAND SOUTH OF BERECHURCH HALL ROAD	32	32				10	22
192249	Not Started	Yes	Full	BROOK ROAD, GREAT TEY	15	15		15			
192136	Not Started	Yes	Outline	BRIERLEY PADDOCKS, WEST MERSEA	100	100			30	30	40
				WINDFALL ALLOWANCE			0	179	249	167	241
						<b>Total</b>	<b>1031</b>	<b>1343</b>	<b>1289</b>	<b>1454</b>	<b>991</b>

**5 Year Supply = 6108**

## Appendix 3 – Site Information

## APPENDIX C

### DELIVERY STATEMENT

The following delivery schedule is based on the timetable set out in Appendix B and follows on from the issue of the decision notice at week 18. It assumes that other items to be actioned by the Council are addressed within the timescales identified.

<b>Day</b>	<b>Action</b>
Week 20	Submission of applications to discharge pre-commencement conditions and validation
Week 21	Consultation period begins (21 days)
Week 22	Consultation
Week 23	Consultation
Week 24	Meeting to review any issues with conditions material unless addressed through exchange of emails/calls
Weeks 25-27	Preparation and submission of any additional information/amendments required
Week 28	Applications approved
Week 29	Site set up begins
Week 32	Construction begins
Week 84	First completion

Completions will average 60 units per year (open market and affordable). The site is expected to be completed within 2.5 years. This reflects the pace of delivery on other sites being developed by Bloor Homes in the Colchester area such as Severalls.

RE Fiveways Fruit Farm Stanway

From: Stuart Cock <stuart.cock@merseahomes.co.uk>  
Sent: 24 April 2019 11:11  
To: Karen Syrett  
Subject: RE: Fiveways Fruit Farm Stanway

Karen

Certainly, I can confirm the following -

\* We have secured the site via an Option Agreement from a single owner who will give us vacant possession after planning permission is achieved.  
\* There aren't any legal issues that make the site undeliverable.

Regards

Stuart

Stuart Cock Managing Director

Eagle House  
Kingsland Road  
West Mersea  
Essex, C05 8RA

t: 01206 383159

[www.merseahomes.co.uk](http://www.merseahomes.co.uk)

From: Karen Syrett <Karen.Syrett@colchester.gov.uk>  
Sent: 23 April 2019 18:30  
To: Stuart Cock <stuart.cock@merseahomes.co.uk>  
Subject: RE: Fiveways Fruit Farm Stanway

Dear Stuart

Thank you for the information. For the purposes of demonstrating delivery I would be grateful if you could confirm the position regarding the availability of the site.

As I understand it you have an option on the land and there are no legal or ownership problems, such as unresolved multiple ownerships, ransom strips tenancies or operational requirements of landowners.

I appreciate we have previously discussed this and that you have completed

RE Fiveways Fruit Farm Stanway

returns to  
inform previous housing trajectories but the requirements in the PPG are such  
that extra  
evidence now needs to be produced.

Many thanks  
Karen

Karen Syrett ~ Planning & Housing Manager ~ Colchester Borough Council  
Tel. 01206 506477 ~ Textphone users dial 18001 followed by the full number.

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sharing this communication with others.

From: Stuart Cock [mailto:stuart.cock@merseahomes.co.uk]  
Sent: 23 April 2019 10:34  
To: Karen Syrett <Karen.Syrett@colchester.gov.uk>  
Subject: Fiveways Fruit Farm Stanway

Karen

Further to your request for a more detailed understanding of our programme for  
the above site I  
confirm the following -

1. You planning officer tells me that we will be going to committee in June  
and we would  
therefore expect to receive planning by September 2019
2. We would then immediately prepare reserve matters and would anticipate  
those being  
produced and approved within 9 months.
3. Site set up would therefore start in the summer of 2020
4. We anticipate first completions to be ready May 2021
5. As there are two developers delivering the site we are anticipating 100  
completions per  
annum meaning the site should be complete by summer 2025.

Please let me know if you need any further information

RE Fiveways Fruit Farm Stanway

Regards

Stuart

Stuart Cock Managing Director

Eagle House  
Kingsland Road  
West Mersea  
Essex, CO5 8RA

t: 01206 383159

[www.merseahomes.co.uk](http://www.merseahomes.co.uk)

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## Appendix 4 - Agent Letters



**Correspondence to:**

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Colchester CO3 4DG  
t: 01206 764626  
f: 01206 764636  
e: lexden@davidmartin.co.uk  
www.davidmartin.co.uk

Dear Karen

3<sup>rd</sup> April 2019

Colchester Housing Supply

Thank you for forwarding the draft housing land supply table to me to review. My apologies that I it has taken some time to get back to you but it is very detailed and I wanted to check with colleagues.

David Martin have offices covering the borough and in particular I have spoken to people at our offices in Lexden, the Hythe and Tiptree. Between these branches we have a good local knowledge of the whole borough.

I have particularly looked, as instructed at lead in times and build out rates. I have also had a high level look at any issues which might exist that would prevent a site coming forward.

I don't think I need to tell you that Colchester has had a very buoyant housing market for a number of years now and I see that continuing. I work with a number of developers and there is no reason to doubt the delivery timescales shown in the spreadsheet. Both the lead in times and build out rates seem reasonable. There are certainly sites of varying sizes that I am aware of that have been completed very quickly.

Personally I would like to see the former Odeon cinema built out sooner than you have shown but understand the difficulties associated with the site as I have acted for the former owner of the site.

I trust this was the sort of market information you require but if I can help you further please get in touch.

Yours sincerely

John Beton  
Managing Director



Jackson & Co

Karen Syrett

Planning & Housing Manager

Colchester Borough Council

29th April 2019

60 Caelum Drive  
Colchester, Essex, CO2 8FP

Dear Karen

Thanks for asking me to look at the Councils latest Housing Trajectory.

Jackson & Co are a local estate agency established in 2007. We have developed and grown the privately owned brand over the years to become one of the major providers in the area for sales, lettings and property management. The success of the business has meant that we have recently needed to expand and relocate into new riverside offices at the Hythe. Although we work across the whole borough and beyond we have particular knowledge of the markets in east Colchester. Our lettings team also have expertise in student accommodation which has been a strong market in recent years and I expect this trend to continue. The University of Essex are part way through a big expansion plan which has been reinforced in the recent publication of their new Strategic Plan. They are planning to deliver a lot more campus based accommodation which will compliment private provision elsewhere. The need for such accommodation cannot be underestimated as Colchester Institute and the hospital increasingly need homes for their students as well as the University.

The east Colchester regeneration which is focused on the Hythe has also picked up in recent years and I expect this to continue. There are large schemes currently underway and planned in Hawkins Road, Haven Road and Lightship Way. We are acting for several clients in the area.

I have had a look at the whole trajectory and it all looks reasonable to me and is reflective of the local market.

I hope this information is useful and if I can be of any more assistance please let me know.

Yours sincerely,

Andrew Greenwood  
Lettings Director  
01206 863900  
a.greenwood@jackson-ps.co.uk



Co. No. 6075095 VAT. 108 4443 29

Appendix 2 - 15 Year Housing Trajectory - October 2020

Planning Reference	Site location	Expiry or Status	Windfall	Permissi on Type	Dwellings	Dwellings Remaining	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	
<b>Berechurch</b>																						<b>Berechurch</b>
160071	BOURNE COURT, COLCHESTER	Completed	Yes	Full	27	0	5															
162958	17 BLACKHEATH, COLCHESTER	Completed	Yes	Full	9	0	9															
180245	"WILLOWS COURT" THE WILLOWS COLCHESTER	Commenced	Yes	Full	15	15									15							
200720	52 BERECHURCH HALL ROAD	06 2023	Yes	Full	1	1			1													
190288	56 BERECHURCH HALL ROAD	Not Started	Yes	Full	4	4		4														
<b>Castle</b>																						<b>Castle</b>
180045	COWDRAY CENTRE, MASON ROAD, COLCHESTER	Commenced	No	Full	262	262			80	80	52	50										
152840	78 MALDON ROAD	Completed	yes	Full	1	0	1															
172739	42 CROUCH STREET, COLCHESTER	Commenced	Yes	PD	26	0	26															
180181	36A – 42 BARRACK STREET, COLCHESTER	04 2021	Yes	Full	7	0	7															
180546	CASTLE COURT, ST PETERS STREET, COLCHESTER	03 2021	Yes	Full	13	13			13													
151004	FMR ODEON CINEMA, CROUCH ST, COLCHESTER	Commenced	Yes	Full	54	54					54											
160903	113-115 CROUCH STREET, COLCHESTER	10 2019	Yes	Full	1	1							1									
161579	32 HIGH STREET, COLCHESTER	07 2019	Yes	Full	4	4							4									
162850	ABBEYGATE TWO, WHITEWELL RD, COLCHESTER	01 2020	Yes	Full	8	8			8													
170424	FMR CO-OP, LONG WYRE STREET, COLCHESTER	Commenced	Yes	Full	24	24		24														
172306	12-14 EAST HILL, COLCHESTER	11 2020	Yes	Full	1	1		1														
181064	42 SMYTHIES RD, COLCHESTER	Commenced	Yes	Full	1	1		1														
182163	2-3 TRINITY STREET COLCHESTER	11 2021	Yes	Full	1	1		1														
182609	32 CROUCH STREET, COLCHESTER	Commenced	Yes	Full	14	14		14														
182647	14 HEADGATE STREET, COLCHESTER	2021	Yes	PD	54	54		54														
163227	RIVERSIDE CENTRE, NORTH STATION RD, COLCHESTER	02 2020	Yes	PD	89	89						89										
170994	48 LEXDEN RD, COLCHESTER	11 2020	Yes	Full	2	2			2													
171871	4 ST BOTOLPHS STREET, COLCHESTER	09 2020	Yes	Full	3	3		3														
171972	26 ST JOHNS STREET, COLCHESTER	02 2021	Yes	Full	5	5		5														
172418	1A ST BOTOPLHS STREET, COLCHESTER	11 2020	Yes	Full	3	3			3													
172443	35 EAST STEET, COLCHESTER	11 2020	Yes	Full	1	1		1														





















<b>Known windfall in supply</b>	399	306	81	11	93	14	5	0	0	0	0	0	0	0	0	0	909
<b>Additional windfall to be applied to known windfall</b>	0	0	179	249	167	246	125	130	130	130	130	130	130	130	130	130	2006
<b>Borough total including windfall prediction</b>	<b>1124</b>	<b>1030</b>	<b>1278</b>	<b>996</b>	<b>1217</b>	<b>780</b>	<b>468</b>	<b>334</b>	<b>173</b>	<b>130</b>	<b>8180</b>						

**Existing allocations without planning permission to be reallocated in New Local Plan**

Site location	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	TOTAL	
BRITANNIA CAR PARK, ST BOTOLPHS STREET, COLCHESTER										30	30	30	30	30		150	
LAND EAST OF HAWKINS ROAD, COLCHESTER (190335)				56	57											113	
LAND WEST OF HAWKINS ROAD, COLCHESTER							25	25	25	25						100	
COALYARD SITE, HYTHE STATION ROAD, COLCHESTER										20						20	
LAND NORTH OF MAGDALEN STREET, COLCHESTER										20						20	
EUROPIT GARAGE SITE, MAGDALEN STREET, COLCHESTER										10						10	
ROBERTSONS VAN HIRE OFFICE, MAGDALEN ST, COLCHESTER										5						5	
MAGDALEN GARAGE, MAGDALEN STREET, COLCHESTER										10						10	
ROBERTSONS VAN HIRE YARD, MAGDALEN ST, COLCHESTER										6						6	
FORD CAR SALES, MAGDALEN STREET, COLCHESTER							25	25								50	
80-83 AND GM CAR SALES, MAGDALEN STREET, COLCHESTER										25						25	
LAND EAST OF TESCO, MAGDALEN STREET, COLCHESTER										10						10	
BARRINGTON ROAD/BOURNE ROAD, COLCHESTER							13	15								28	
FORMER ESSEX COUNTY HOSPITAL, COLCHESTER (192828)				60	60											120	
COLDDOCK, HYTHE, COLCHESTER										20						20	
LAND ADJ HYTHE GAS WORKS, HYTHE QUAY, COLCHESTER										20	20					40	
KING EDWARD QUAY, HYTHE, COLCHESTER										50	50					100	
SCRAPYARD SITE, HYTHE QUAY, COLCHESTER								40	40	40	40	40				200	
BRIDGE HOUSE AND GARAGE, HYTHE QUAY, COLCHESTER																18	
24 HYTHE QUAY, COLCHESTER																12	
	0	0	0	116	117	0	63	105	115	291	120	70	30	30	0	<b>TOTAL</b>	<b>1057</b>

**New Local Plan allocations**

**Garden Communities**

Site location	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	TOTAL	
TENDRING COLCHESTER BORDERS	0	50	100	100	100	100	150	150	150	150	200	1250	
	0	50	100	100	100	100	150	150	150	150	200	<b>TOTAL</b>	<b>1250</b>

**Colchester (and Stanway) urban area allocations**

Site location	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	TOTAL	
VINEYARD GATE, COLCHESTER							50	50								100	
MILL ROAD, COLCHESTER (EXTRA CARE)				60	60	60	60	20								260	
RUGBY CLUB, MILL ROAD, COLCHESTER			50	100	100	100										350	
LAND NORTH OF BRAISWICK, COLCHESTER							20	25	25							70	
DEFENCE SUPPORT GROUP (DSG), FLAGSTAFF ROAD										25	25	25	25			100	
MIDDLEWICK RANGES, COLCHESTER							100	120	120	120	120	120	120	60		1000	
PORT LANE, COLCHESTER											40	50	40			130	
PLACE FARM, OLD HEATH ROAD, COLCHESTER							15									15	
LAND SOUTH OF BERECHURCH HALL ROAD, (191093)(2 sites Harding - p app - full (feb) Bellway					10	22	45	45	28							150	
ROSEMARY ALMSHOUSES, LONDON RD, STANWAY									13	13						26	
LAND WEST OF LAKELANDS, STANWAY							40	40	40	30						150	
LAND NORTH OF LONDON ROAD, STANWAY								25	55	50						130	
LAND SOUTH OF A12, STANWAY							50	70	70	70	70	70	50	50	50	550	
	0	0	50	160	170	182	380	395	351	308	255	265	235	170	110	<b>TOTAL</b>	<b>3031</b>

**Other Allocations**

Site location	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	TOTAL
LAND ADJACENT THE FOLLEY, LAYER DE LA HAYE									25	25						50
EAST OF QUEENSBERRY AVENUE, COPFORD									35	35						70
HALL ROAD, COPFORD									25	25						50
LAND EAST OF PELDON ROAD, ABBERTON							5									5
LAND WEST OF PELDON ROAD, ABBERTON							20	15	15							50
DAWES LANE, WEST MERSEA (200351)							30	40	30							100
BRIERLEY PADDOCKS, WEST MERSEA (192136)				30	30	40										100

ROWHEDGE BUSINESS CENTRE, ROWHEDGE									20	20								40	
SWAN GROVE, CHAPPEL							15	15										30	
PLUMMERS ROAD, FORDHAM								10	10									20	
SCHOOL LANE, GREAT HORKESLEY									13									13	
GREAT HORKESLEY MANOR, GREAT HORKESLEY (200668)							25	25	15	15								80	
GREENFIELD DRIVE, GREAT TEY								15	15									30	
BROOK ROAD, GREAT TEY (192249)			15															15	
WICK ROAD, LANGHAM											10							10	
SCHOOL ROAD (WEST), LANGHAM							15	15										30	
LAND NORTH OF ELMSTEAD ROAD, WIVENHOE							15	10										25	
BROADFIELDS, WIVENHOE							30	30	30	30								120	
CROQUET GARDENS, WIVENHOE											10	15						25	
COLCHESTER ROAD, WIVENHOE										40	40							80	
	0	0	15	30	30	40	155	235	273	150	15	0	0	0	0	0	0	<b>TOTAL</b>	<b>943</b>

#### Rural Exception Sites

Site location	2019/2	2020/2	2021/2	2022/2	2023/2	2024/	2025/2	2026/2	2027/	2028/	2029/	2030/	2031/	2032/	2033/	TOTAL	
LAYER DE LA HAYE	0	1	2	3	4	25	6	7	28	29	30	31	32	33	34	30	
FORDHAM							10									10	
OTHER VILLAGES							5									5	
	0	0	0	0	0	0	30	15	0	0	0	0	0	0	0	<b>TOTAL</b>	<b>45</b>

#### Neighbourhood Plans

Site location	2019/2	2020/2	2021/2	2022/2	2023/2	2024/	2025/2	2026/2	2027/	2028/	2029/	2030/	2031/	2032/	2033/	TOTAL	
WEST BERGHOLT	0	1	2	3	4	25	6	7	28	29	30	31	32	33	34	80	
TIPTREE							65	65	70	65	65	70	65	70	65	600	
	0	0	0	0	0	0	65	65	70	65	125	90	65	70	65	<b>TOTAL</b>	<b>680</b>

#### Total 15 year Housing Supply

	2019/2	2020/2	2021/2	2022/2	2023/2	2024/	2025/2	2026/2	2027/	2028/	2029/	2030/	2031/	2032/	2033/	TOTAL
Total including GC's permissions, windfall, adopted and emerging allocations	0	1	2	3	4	25	6	7	28	29	30	31	32	33	34	<b>15186</b>

Average DPA	1012
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As above EXCLUDING GC's (Garden Communities)

<b>TOTAL</b>	<b>13261</b>
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Average DPA	884
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## 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”*.
- 

#### **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)





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## Appeal Decision

Hearing date 9 September 2020

Site visit made on 3 September 2020

**by Stephen Wilkinson BA BPI DIP LA MBA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 15 October 2020**

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**Appeal Ref: APP/A1530/W/20/3245754**

**Land adjacent to 67 Braiswick Road, Braiswick, Colchester, Essex CO4 5BQ**

- 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 Mr Steven Lewis, Rydon Homes against the decision of Colchester Borough Council.
  - The application Ref 191522, dated 7 June 2019, was refused by notice dated 19 December 2019.
  - The development proposed is an outline application for residential development of up to 27 dwellings and associated development with site access to be considered and all other matters reserved for future consideration.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 27 dwellings and associated development with site access to be considered and all other matters reserved for future consideration at land adjacent to 67 Braiswick Road, Braiswick, Colchester, Essex CO4 5BQ in accordance with the terms of the application, Ref 191522, dated 7 June 2019, and the plans submitted with it, subject to the schedule of conditions included in this letter.

### Application for costs

2. An application seeking a full award of costs against the Council has been submitted by the appellant. This application is the subject of a separate letter.

### Preliminary Matters

3. The application was originally submitted for 34 dwellings but was amended in advance of its determination by the Council. During the Hearing main parties agreed the following description of the proposal as 'an outline application for residential development of up to 27 dwellings and associated development with site access to be considered and all other matters reserved for future consideration'. I have determined the appeal on this basis.
4. Due to the Covid-19 pandemic the Hearing was postponed and I conducted a virtual hearing on the 9 September 2020 attended by the main parties and an interested party.
5. The application was made in outline form with all matters reserved except for access. Details of appearance, landscaping, layout and scale are therefore not considered in this decision. The application was submitted with an Illustrative

Master Plan, plan no 619-OA-13, showing the proposed areas for housing, flood attenuation and landscaping in a schematic form. Given that 'layout' is a reserved matter I have treated the drawing as purely illustrative.

6. During the Hearing a completed planning agreement made under Section 106 of the Town and Country Planning Act 1990, as amended was presented. The Council consider that this addresses its second and third reasons for refusal which were subsequently withdrawn in advance of the Hearing. However, as a decision maker I have to consider this agreement against the advice in the National Planning Policy Framework (the Framework). Furthermore, a Unilateral Agreement dealing solely with access through the site was presented in advance of the Hearing. I deal with both the agreement and undertaking later in this decision letter.
7. Included in the Council's first reason for refusal was a reference to viability. This matter was withdrawn before the Hearing by the Council on receipt of evidence from the appellant. However it remains an objection from land owners with interests in part of the emerging housing allocation included in draft policy NC3 and for this reason I have addressed this matter below.
8. The Council through evidence indicated that it was not pursuing an objection to the appeal scheme based on 'prematurity'.

### **Main Issues**

9. The main issues arising from this proposal are:
  - Whether the Council can demonstrate a 5 year housing land supply (5YHLS),
  - Whether the appeal scheme would be appropriately located having regard to both national and local policies regarding housing development,
  - Whether the proposal would prejudice the comprehensive development of the housing allocation proposed under emerging Policy NC3 of the emerging local plan having regard, in particular to matters of viability, deliverability and connectivity, and
  - Whether the proposed development can achieve an appropriate standard of design quality.

### **Reasons**

#### ***Housing Land Supply***

10. The Glossary included in Annex 2 of the Framework includes a definition of 'deliverable' which is supported by further definition in the Planning Practice Guidance (PPG). This identifies that for sites to be considered deliverable they should be available now with a realistic prospect of delivery within 5 years. Two closed lists are set out in the definition.
11. The first identifies sites which do not involve major development and have planning permission and all sites with detailed planning permission. These should be considered deliverable until permission expires unless there is clear evidence that not all homes will be delivered within 5 years. The second covers sites with outline planning permission for major development which have been

allocated in a development plan, have a grant of permission in principle or are identified in a brownfield register. These sites should only be considered deliverable where there is evidence that housing completions will begin on site within 5 years.

12. The PPG goes into more detail on the requirements for sites to be considered deliverable and highlights evidence of delivery as including progress actually made to achieving reserved matters, links to a Planning Performance Agreement (PPA) which identifies the steps to achieving reserved matters, details which confirm the developer's delivery intentions with anticipated start and delivery dates, site assessment works and relevant information about issues such as viability, ownership and /or funding bids for infrastructure. This is not meant to be a definitive list but provides pointers to the prospects for housing delivery and recognises the dynamic of the housing market.
13. Whilst both parties referenced recent decisions of my Inspector colleagues on this topic, which in many instances identified the same sites which are under consideration in this appeal, I am not bound by their conclusions. Several sites which may form either wholly or in part emerging sites in the emerging Local Plan (eLP) now have planning permission. For this reason, they can be distinguished from the site identified by the Inspector in an earlier appeal decision in Braiswick<sup>1</sup>. Several of the disputed sites identified below either had resolutions to grant planning permission or were the subject of PPAs<sup>2</sup> in advance of the cut off date for the APS<sup>3</sup>; this distinguishes them from the concerns expressed over the inclusion of sites referred in the Woolpit decision.<sup>4</sup>
14. Furthermore, the recent Court Order<sup>5</sup> establishes that the categories a) and b) included in the Annex 2 to the Framework are not the only types of site covered by the definition and that providing that there is clear evidence about deliverability and a realistic prospect that completions will occur within 5 years there is no reason to exclude sites from categories a) and b) included in Annex 2. This confirms the extent of sites which can be delivered.

15. The disputed sites are as follows:

*Land north of Magdalen Street*

16. The site benefits from a resolution to grant planning permission and whilst the decision has not been issued the draft heads of terms have been agreed. Whilst there was some slippage in the date for the submission of the planning application as originally anticipated, the Council's programme reflects a build out commencing in 2023-24. I consider that this would allow sufficient time to complete the draft agreement and preliminary works enabling completion within the 5 years. Accordingly, there is a realistic prospect of housing delivery in line with the Council's suggested programme.

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<sup>1</sup> APP/A1530/W/17/3178656

<sup>2</sup> Planning Performance Agreement

<sup>3</sup> Annual Position Statement

<sup>4</sup> APP/W5320/W/18/319926

<sup>5</sup> East Northamptonshire Council v Secretary of State for Housing, Communities and Local Government Case No. CO/917/2020

### *East Hawkins Road*

17. An outline application which includes full details apart from landscape which is a reserved matter has yet to be determined by the Council. Recent decisions of my Inspector colleagues have been at odds on the future potential of this site. The Council accept that its designation as an employment site is now out of date and have been negotiating on a new scheme for student accommodation. However, I consider that despite the good intentions of the negotiating parties involved with the application there is a question mark over the extent to which this site would contribute to supply within 5 years as it does not currently fall in either of the closed lists. Whilst there may be a reasonable prospect of it contributing to supply at some point for the time being there is insufficient evidence to support the case that it will yield any units within the 5 years in question. For this reasons I am deducting its anticipated contribution of 113 units from supply.

### *Former Essex Hospital Site*

18. The application is the subject of a resolution to grant permission and the draft section 106 agreement has been circulated for comment within the Council. Preparatory work in advance of pre commencement conditions regarding land contamination and archaeological works is currently underway. Whilst there are other pre-commencement conditions I consider that approval may slip from the Councils trajectory. Although it is doubtful whether the site could be delivered within the next 2 years as the Council suggests I am satisfied that the site could be developed out within 5 years.

### *Mill Road/Colchester Rugby Club*

19. The site forms part of a growth area and is included as an 'allocation' within the eLP and benefits from form £5.5m for Housing Infrastructure Funding (HIF). Permission has been granted for infrastructure which is currently being constructed to meet the HIF grant requirements. The site comprises 2 distinct schemes for 300 older persons homes and a 75 bed care home which in total accounts for 350 homes in accordance with the PPG.
20. 'Holding' objections have been received from both Highways England and Sport England seeking further information and scheme revision with a further objection from the Community Council. Although the Council's trajectory allows for delivery commencing in 2022-23, this is slightly generous given the nature of some of the objections and the anticipated supply of 160 units each year over 3 years. However, I acknowledge that grant funding provides an imperative for delivery and given the status of the application I consider that a figure of 80 units would be more realistic for the first year of delivery instead of 160 included. Accordingly, I am deleting 80 units from the Council's anticipated supply.

### *Gosbecks 2*

21. I am satisfied with the Council's evidence that despite this site being only an 'emerging' allocation in the APS the application had by March 2020 the benefit of a committee resolution broadly in line with a PPA. A decision was subsequently issued in July 2020. Applications are with the Council for the

approval of outstanding conditions. For these reasons the site has a reasonable prospect of being delivered in line with the Council's anticipated programme.

*Brierley Paddocks*

22. Although the site did not benefit from planning permission by the base date of the APS it did have a PPA and now has planning permission and reserved matters have been approved together with approval granted for several planning conditions. This is sufficient evidence that the site has a reasonable prospect of being fully completed within the 5 years.

*Berechurch Hill Road*

23. The site is part of an emerging allocation in the eLP and the Council has resolved to grant permission subject to a section 106 agreement. Evidence was presented that the developers intend to start works in January 2021. The scheme includes road access which is enabling development and is not dependent on access from another part of the site which has yet to receive permission. For these reasons the site should remain as part of the 5 year supply.

*Odeon site*

24. Although there is already an extant permission and listed building consent for these works viability issues with the scheme have necessitated revisions resulting in the submission of new applications. Although the principle of residential development at this site has been accepted the site's listing and the applicant's requirements for additional units require resolution. For the time being there is insufficient evidence to support the case that it will yield any units during the 5 years in question. Accordingly, I delete 54 units from the Council's supply.

*Halstead Road/Eight Ash Green*

25. The Council provided the key dates included in a PPA which indicate that an application would be submitted in mid October 2020. As no application has been submitted at the time of writing I do not consider that this site falls within either of the closed lists included in the Annex to the Framework. I am disregarding this proposed allocation based on the evidence submitted by the Council. This results in the deletion of 150 units.

*Windfall allowance*

26. With regard to windfall sites I was referred to the decision of the Secretary of State in the 'Darnhall' case<sup>6</sup> where amongst other matters concerns were expressed over the possibility of double counting the contribution from small sites together with the allowance for windfalls. The Council's approach to the calculation of supply does not fall into this trap and the figure used is based on a modest average when compared with the contribution from this source in recent years. The year 1 figures have the benefit of permission and on the basis of delivery in previous years there is a good prospect of their delivery.

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<sup>6</sup> APP/A0665/W/14/2212671

### *COVID-19*

27. Both parties addressed the effect of the pandemic on housing delivery given the hiatus of several weeks in construction activity required by Government. It is almost impossible to predict the impacts of how the pandemic may affect housing supply over the next few years. The appellants citing the Wokingham<sup>7</sup> decision, issued towards the start of the lockdown suggest a deduction of between 74-148 dwellings should be made equating to between 3-6 months supply. Since that decision was issued the response of the built environment sector has become clearer and the Council highlighted measures which have been put in place which have acted as a spur to house building to compensate for the loss in supply. On the balance of evidence before me I consider that there would be no significant impacts on supply from the pandemic.

### *Conclusion on Housing Land Supply*

28. The Council states that it has a supply equating to around 5.4 years based on 6,108 units<sup>8</sup> identified within its APS. Both parties in advance of the Hearing agreed a contribution of 300 units from the Fiveways Fruit Farm; this is a reduction of 50 units originally included in the Council's trajectory. Furthermore, based on my analysis, I have deleted a further 397 units resulting in a 5YHLS of 5,661, sufficient to maintain a 5YHLS.

29. Accordingly, in line with paragraph 11 d) of the Framework the 'tilted balance'<sup>9</sup> is not engaged. My assessment of the planning merits of this scheme will proceed against the policies of the development plan.

### ***Location and Policy Framework***

#### *Development Plan*

30. The statutory development plan includes the adopted and saved policies of the Colchester Borough Council Core Strategy 2008 (CS), the Site Allocations DPD 2010 (SADPD), the Development Plan policies 2010 (DPP), the Proposals Map and the Myland and Braiswick Neighbourhood Plan (NBHP). Some policies included in the CS were the subject to a focussed review and were adopted in 2014. The NBHP does not include housing allocations.

31. There is no dispute between the parties on the most important policies for determining this appeal. Policy SD1 is a strategic policy designed to direct growth consistent with housing targets dating from 2008 to a hierarchy of settlements across the Borough. It was reviewed as part of the CSFR in 2014 to reflect the Framework 2012. Although SD1 was predicated on the 2012 adopted Framework, it is a broad policy reflecting a presumption in favour of sustainable development and remains consistent with the Framework 2019 despite its reference to an out of date housing target.

32. Consistent with SD1, Policy ENV1 aims to protect the Borough's natural and historic environment, countryside and coastline. This is an environmental policy directed at both the protection of the natural environment and to direct

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<sup>7</sup> APP/X0360/W/19/3238048

<sup>8</sup> SoCG HLS 14.08.20

<sup>9</sup> Defined by paragraph 11 of the Framework 2019

development to sites within settlement boundaries. Although the Framework is more nuanced and does not seek to protect the countryside for its own sake it does, at Paragraph 170b, recognise the intrinsic character and beauty of the countryside. During the Hearing the Council made clear that the site does not form part of a 'valued landscape'.

33. Policy H1 is specific to housing allocations seeking to ensure that 80% of new housing is provided on previously developed land distributed in line with the settlement hierarchy. Although identified as an important policy by the Council it informs the delivery of Policies SD1 and ENV1.
34. The main parties also identify Development Plan Policies DP1, DP3 and DP21 as most important. Policy DP1 requires development to respect the character and context of sites in terms of architectural form, density massing and proportions. The Council identify in its case, although not identified as 'most important', Policy UR2 which requires new development to contribute to the creation of places with distinctive character. I regard this Policy as identifying with Section 12 of the Framework. Policy DP3 addresses planning obligations and is broadly consistent with paragraphs 54-56 of the Framework. Finally, DP21 addresses nature conservation and protected sites and is broadly consistent with the Framework.
35. For these reasons, whilst some of my Inspector colleagues have differed in their assessment of these policies, the Council can demonstrate that it has a 5YHLS and this together with its current HDT<sup>10</sup> score, demonstrates that it has development plan that is working to support the government's objective to significantly boost the supply of homes. I am satisfied that on balance the policies are not out of date.

#### *The Neighbourhood Plan*

36. The NBHP includes reference to housing in the context of the housing allocations included in the adopted Local Plan and does not seek housing development beyond this. Policies H1 and H2 seek to ensure a high standard of development across the area which provides for choice and that historic assets should be respected in any new development. These Policies explicitly identify with Policy H3 of the Local Plan.

#### *The emerging Local Plan (eLP)*

37. Set against the adopted policies are those emerging in the new joint local plan being prepared by the Council with the neighbouring district councils of Tendring and Braintree. There is no dispute between the parties on which they consider are the most important policies. Following the Examination in Public, Modifications to Part 1 are the subject of consultation whilst policies included in Part 2 are still under consideration by the respective Councils and will be examined at a later date. The extent of proposed housing growth for the Borough has been confirmed in the 'modifications' which are now the subject of public consultation.
38. Both parties agree that the most important policies included in Part 2 of the eLP. These includes policies SG1, SG2, NC3, DM8, DM9 and DM15. Policies SG1 and SG2 confirm the spatial strategy, the settlement hierarchy and the

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<sup>10</sup> Housing Delivery Test

distribution of growth across the Borough. Policy NC3 includes a housing allocation for 70 homes on a site which includes the appeal site. Policies DM8, DM9 and DM15 address affordable housing, density and seek high standards of design ensuring that new development respects its context. Initially the Council ascribed only limited weight<sup>11</sup> to the policies of the eLP but it is understood due to the progress made on the Modifications for Part 1 of the plan in its Closings<sup>12</sup> this altered for policies NC3, SG1, SG3 and ENV1 significant weight in common with the appellants.

39. In line with Paragraph 48 of the Framework I ascribe only 'limited weight' to these emerging Part 2 policies including NC3. This is despite the Council's statement<sup>13</sup> that none of the objections to the policy are significant and of major concern. However, it has to be tested through the EiP and many of the objections from interested parties to this appeal scheme reflect concerns over the principle of development on the wider site and not just with the detail of this scheme.

#### *Emerging Policy NC3*

40. The Council's objections to the appeal scheme are underpinned by the potential difficulties involved in securing housing delivery in line with the emerging policy because of multiple land ownerships. This requires a comprehensive approach to the development of all land included in NC3. The Council refers to the concerns of these landowners regarding deliverability, viability and connectivity to their land parcels as the proposed single access point to the site allocation lies within the appeal site.
41. I recognise the importance to which the Council attaches to the requirement for a comprehensive masterplan involving all landowners to give effect to the delivery of the emerging site. However, in itself this would not necessarily guarantee that the whole site could come forward. Underpinning any development agreement between those parties with an interest in the land would be a desire to maximise financial interests. The decision of the appellants to leave the masterplan negotiations resulting in the submission of the application arose from their concerns over land equalisation which they opposed. This is likely to be a consideration with or without a masterplan.
42. The inclusion of the Unilateral Undertaking as part of the appeal scheme is a legitimate device which has the potential to enable connectivity from the appeal site to the rest of the site allocation within NC3. The considerations included in the Undertaking which address the premium required for the ransom strip are the type of considerations that would underpin future negotiations between landowners across the whole site allocation irrespective of the outcome of this proposal. For this reason, I do not consider that the appeal proposals would necessarily frustrate the delivery of the allocation included in NC3 as the Council consider.
43. Finally, many of the requirements of the policy could either wholly or in part be delivered by the appeal scheme. These include a new site access, affordable housing and contributions to landscape and biodiversity.

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<sup>11</sup> Officers report to Committee

<sup>12</sup> Closing statement

<sup>13</sup> Statement of Case

### *Design Quality*

44. The appeal site is open countryside which slopes steeply down from Braiswick Road. It is surrounded on 3 sides by thick tree belts with its eastern side open to the gardens serving Nos 67-85 Braiswick Road, part of which forms land within site allocation NC3. Housing in the local area comprises large detached properties although Nos 67-85 Braiswick Road comprise 2No. part 2 and 3 storey block of flats.
45. Whilst Policy ENV1 seeks to protect the countryside, the Council does not have an objection to the proposed scheme on landscape grounds in line with the policy. Despite the Council's requirement for a landscape led approach to deliver an 'Arcadian' style of development, in line with the Essex Design Guide with densities of around 8 dwellings per hectare (dph) it has suggested that a density of between 10-15dph would be appropriate for this site resulting in up to 20 dwellings<sup>14</sup>. It is my understanding that an Arcadian design would be predicated on the dispersal of dwellings through natural features. However, this site does not immediately lend itself to this form of development as the central part of the site is open with tree coverage confined to its 3 boundaries.
46. I heard contrasting evidence on density calculations based on the site's constraints and its net developable area. However, when all matters on this issue are taken into account the difference between the parties is around 7 dwellings. I do not think that this difference is excessive given the site area and its location. I acknowledge, however, that making the most effective use of land in line with paragraph 123 of the Framework is not just about increasing densities but also seeking an appropriate form of design which reflects local context. However, even with the site's constraints the proposed scheme could be provided to an acceptable design and would not appear out of place subject to careful consideration of outstanding of reserved matters.
47. The appeal scheme would not conflict with Policy UR2 as it is proposed for 'up to 27 dwellings' which would allow further changes during reserved matters. Furthermore, whilst Policy DP1 identifies a range of criteria to guide new development, I consider that the detail required by this policy is for consideration for full applications or approval of outstanding reserved matters in contrast to the issue of principle being sought by the appellants through this outline scheme. From what I have seen and heard during the appeal process I have found no reason to believe that a scheme that meets those criteria could not be reasonably achieved at the Reserved Matters stage.
48. Many of the other issues raised by the Council arising from the proposed number of units, such as overlooking, separation distances and drainage could be resolved through the submission of details required by reserved matters and conditions.
49. Although the proposals would conflict with the NBHP Policies H2 and H3 could inform its design at reserved matters stage. I conclude that for these reasons and in the absence of evidence directly in support of ENV1, that the proposed scheme would not be in conflict with Policies UR2 and DP1.

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<sup>14</sup> Paragraph 6.5.12 SoC

## **Other Matters**

### *Infrastructure Provision*

50. Refusal reasons 2 and 3 include reference to the absence of planning obligations in respect of affordable housing and payments towards open space, sport and recreation, community facilities and archaeology and the Essex Coast Recreational Avoidance and Mitigation Strategy. Immediately after the Hearing I was presented with a completed legal agreement made under Section 106 of the Town and Country Planning Act 1990, as amended, and I am therefore required as a decision maker to consider this.
51. The agreement, dated 9 September 2020, is signed by the landowners and the Borough Council. This makes provision for 30% of the proposed housing to be affordable, and for payments to deliver open space, sport and recreation, community facilities and archaeology and the Essex Coast Recreational Avoidance and Mitigation Strategy.
52. A Community Infrastructure Compliance (CIL) Schedule submitted by the Council identifies the policy basis for each of these items included in the agreement. Overall, the obligations included in the agreement are related to the requirements of development plan policies and are necessary, directly related and fairly and reasonably related in scale and kind to the proposed scheme in line with paragraphs 56-57 of the Framework.

### *Viability*

53. Viability formed part of the Council's first reason for refusal but was subsequently withdrawn on receipt of a viability report from the appellants. This provides evidence that in the event of the appeal site being granted permission development of the land within the remainder of the site allocation NC3 (outside the appeal site) would still be viable.
54. This matter still forms part of the case against the scheme by both Scott Properties and Colchester Golf Club which both have an interest in the other land in the NC3 site allocation. A viability report submitted by the Golf Club concludes that the appeal site's development would be unviable. Questions of viability for a development site primarily remain the concern of the applicant as long as the approach respects the methodology of the PPG. In this regard I have no issue with the evidence presented by the appellants on this matter.
55. Given this context, the balance of evidence points in favour of the appellants' conclusions that development of the appeal site would be viable.

### *Habitats*

56. As a decision maker I am required to consider proposals under Part 6 of the Conservation of Habitats and Species Regulations 2017.
57. The appeal scheme proposes up to 27 dwellings on a site within an identified zone of influence of a number of European and Internationally designated sites. These include the Essex Coast Natura 2000 and includes several SPAs<sup>15</sup> which

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<sup>15</sup> Special Protection Areas

- include the Colne, Blackwater, Stour and Orwell estuaries. The latter of these is a designated Ramsar site. There is a further Denge SPA and Ramsar and the Essex estuaries Special Area of Conservation.
58. The Colne estuary SPA and Ramsar includes an intertidal zone of mudflat communities and is of both national and international importance for wintering Brent Geese, Blacktailed Godwit and Little Terns and other species of wintering fowl. Its habitats include salt and grazing marsh, reedbeds sand and shingle pits. The Ramsar site includes an outstanding assemblage of invertebrates and plants.
59. Blackwater estuary SPA is similar to the Colne estuary in the quality of its habitats but can be distinguished by its qualifying features which include Hen Harrier and Dunlin.
60. The Stour and Orwell estuary Ramsar is an area of tidal mudflats and saltmarsh located around the Blackwater and Crouch estuaries. Comprising mudflats, cliffs and saltmarshes, this varied habitat supports internationally and nationally important numbers of species of wintering bird fowl and waders. Scarce plant varieties are found throughout the area.
61. The Denge estuary Ramsar is characterised by extensive saltmarshes and spits and beaches supporting rare flora and fauna. It is home to wintering fowl and in the summer migrant birds can include rare species.
62. The development of up to 27 dwellings would result in an additional 65 people based on an average of 2.4 people per household. The appeal site lies within the Zone of Influence and within 6 miles of the Colne estuary. However, the number of residents would be reasonably low and there are large areas of open space including Highwoods Country Park and Castle Park in Colchester which would be attractive for recreation. Bearing this in mind it is unlikely that residents would travel to the coast in significant numbers, resulting in potential damage to habitats and species from walkers.
63. In correspondence NE have confirmed that appropriate avoidance and mitigation measures should be sought in line with the adopted Essex Coast Recreational disturbance Avoidance and Mitigation measures supplementary planning document (RAMS SPD). These could include securing payments towards mitigation in line with within the coastal designated sites. In respect of this appeal the completed Section 106 agreement includes a contribution to the RAMS in line with the SPD. The contribution is necessary to make the development acceptable in planning terms and fairly and reasonably related in scale and kind to the development and accords with section 106 of the Town and Country Planning Act 1990 as amended and Regulation 2 of the Community Infrastructure Levy Regulations 2010 as amended. On this basis I am satisfied that the proposed development would not adversely affect protected sites.

*Interested parties*

64. A large number of objections were received to the appeal proposals and I address these below.
65. *The principle of development on this site* - whilst I acknowledge that the proposals do not comply with adopted policy as they lie beyond the settlement

boundary this alone is not sufficient for a dismissal to be justified. For the scheme to be resisted there has to be evidence of harm in line with the policy objection. To this extent I am not persuaded by the Council's evidence that there is an objection on landscape grounds consistent with policy ENV1. Instead its case rests on support for the emerging allocation included in NC3. Balanced against these considerations are other material considerations including the supply of additional housing which is policy compliant in terms of the amount of affordable housing.

66. The location of the site would not to my mind result in a 'coalescence' with neighbouring settlements given its location close to the A12 road which separates the site from West Bergholt. There are areas of open space lying between the appeal site and West Chesterwell which would not be affected by these proposals and would not be eroded significantly by this proposal.
67. *Too much development in Colchester* – several parties have referred to the large number of developments which are occurring around the city. This development pressure is being experienced across large areas of the country and reflect the Government's priority to boost housing supply. Colchester Borough is no exception to this. Through both the Local Plan process and the negotiation of planning obligations sufficient infrastructure should be in train to support this level of growth. The lack of proposed infrastructure required for this development formed the second reason for refusal. However, on receipt of the planning agreement completed under Section 106 of the Town and Country Planning Act 1990 contributions towards infrastructure the Council withdrew this reason for refusal. I have presented my views on this agreement below.
68. *Movement and Highway safety* - Although the site lies outside the settlement boundary it lies within 250m of the Bakers Lane bus stop which would enable choice in the selection of transport modes as it affords access to bus services to surrounding settlements including Colchester where there is a full range of services. The appellants are required by condition to require new bus stops. These would further maintain the attractiveness of the site for modal choice.
69. The transport assessment included with the application was completed on the assumption of a development of up to 70 dwellings which would generate around 31 and 38 vehicles during the morning and evening peaks respectively. If one allows for a commensurate reduction for the appeal scheme, comprising 27 dwellings, the amount of traffic generated would be not be excessive.
70. The proposals include details of sight lines for the proposed access which are predicated on maximising the safety of highway users given that the evidence shows that a proportion of vehicles travelling along Braiswick Road exceed speed limits. This measure should ensure that the creation of the new road access would not impact adversely on road safety. Although concerns have been raised over the number of accidents along Braiswick Road, the Transport Assessment submitted with the application identifies that just 3 accidents have occurred during the last five years. The proposed junction design satisfactorily addresses highway safety.
71. *Habitats* - the application was accompanied by a Phase 1 habitat survey and Protected Species report. Whilst there are a number of protected species on the site it is suggested that a Biodiversity Enhancement strategy could improve habitats to the benefit of these species; this would be controlled through

condition. Furthermore, I have conducted an Appropriate Assessment on the impact of the proposals on the international and national habitats which are found along the river estuaries of the Essex Coastline. A series of conditions are included in this letter designed to protect the site's biodiversity.

72. *Flood Risk and Drainage* - the site lies outside land designated as flood zone 3 and the risks of flooding on the appeal site are low. The drainage strategy which accompanies the application identifies how the proposed ponds within the site could form part of sustainable drainage system which would enable a natural way to accommodate excessive surface water.
73. *Landscape* - although the Landscape Character Assessment acknowledges that the magnitude of change on the occupiers of the neighbouring residential property would be high this is determined by the site's proximity to these properties. Landscaping is a reserved matter and this would allow the negotiation of a landscape scheme which could reduce the impacts of the proposals.
74. *Noise* - several objections refer to the high levels of noise generated by the A12 which would be compounded by the proposed scheme as traffic would run along the site boundary with neighbouring residential properties. However, in consideration of reserved matters scheme design could require conditions to ensure adequate insulation for the new dwellings. On a related point given the low levels of traffic generated by the proposal traffic noise would likely to be within acceptable levels.
75. A range of other objections regarding land ownership and the loss of private amenity space currently enjoyed by residents of the neighbouring flats have been made. As the site does not include the loss of private garden space I can only conclude that these comments are referring to the emerging site allocation included in Policy NC3.

### **Planning balance and conclusions**

76. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
77. The policy context of this appeal is framed around both the adopted plan and the emerging plan, in particular emerging policy NC3. Whilst the appeal site lies beyond the settlement boundaries and in open countryside contrary to policies SD1 and ENV1, the balance of evidence presented by the Council in respect of the fourth main issue accepts some form of development on this site as long as it is at an appropriate density and can be comprehensively planned. The weight of the Council's evidence rather than being framed around the protection of landscape, reflects matters of urban design; this places considerable weight on the delivery of NC3 but undermines the Council's reliance on the conflict with Policies SD1 and ENV1. This undermines the policies which underpin the NBHP.
78. The description of the proposed development submitted as an outline application of *up to* 27 dwellings allows scope for negotiation when reserved matters are submitted. The difference between the parties in respect of the appeal scheme comes down to about 7 dwellings. To conclude on this point as

set out above, subject to careful control at the reserved matters stage the proposed development would be acceptable in landscape and design terms.

79. The other 'harm' which the Council identifies is the potential effect of the proposal on the delivery of emerging Policy NC3. I acknowledge the importance of masterplanning which engages landowners to bring sites forward as a tenet of good planning. Nonetheless, it has to be balanced against what the appeal scheme can actually deliver in securing new housing and a policy compliant quantum of affordable housing. The Borough just meets the requirement for a 5YHLS and in these circumstances the contribution of 27 new dwellings would help sustain the levels of progress it has made in contributing local housing delivery consistent with the Governments priority for 300,000 new homes each year.
80. I am not persuaded by the Council's argument, advanced during the Hearing, that the development of 9 affordable homes on the appeal site, whilst welcome, could prejudice the delivery of a further 14 on the wider site. The Unilateral Undertaking is a device which could enable the development of the whole allocation.
81. Even though the Council applies 'significant weight' to Policy NC3, its primary objection to the proposals is based on how the deliverability of the Policy would be hampered because the appeal scheme may not allow comprehensive development of the proposed NC3 allocation. Having withdrawn its objection on viability, its concerns relate to the extent of control that the appellants would have over the access required to serve the whole site. The arguments promoted by the other site owners on viability were unclear and questioned the basis for the development of the whole site allocation. Many of the stated requirements included in emerging Policy NC3 would be addressed in part by the appeal scheme including the access from Braiswick Road, the retention of tree belts, noise mitigation and that no part of the scheme would lie within flood Zone 3.
82. Whilst I recognise the significant weight which the Government places on neighbourhood planning, the NBHP supports the housing allocations of the adopted plan but does not explicitly prohibit development on this site and its housing policies seek to ensure the provision of dwellings of sufficient mix and of good design. As this is an outline application with all matters reserved apart from 'Access', the opportunity exists to enable these policy aims to be secured.
83. I conclude that whilst the scheme would be contrary to adopted policies other material considerations prevail. These matters include new housing with a policy compliant amount of affordable housing; this would go some way to address the emerging 'affordability gap'. I regard the matters included in the Section 106 agreement as not carrying significant weight as they are required to mitigate for the effects of the proposed development.
84. Although I give only limited weight to the eLP the proposals would not necessarily frustrate the delivery of the site allocation at some future point; the Unilateral Undertaking provides a mechanism to deliver this. The proposed scheme would lead to the generation, in the short term, of construction jobs which could support employment opportunities and once the units are completed would support local services through increased local spending power

by new residents. Conditions attached to this decision would serve both to protect and enhance the site's biodiversity.

85. For the above reasons I allow this appeal subject to planning conditions.

### **Conditions**

86. The main parties included in their Statement of Common Ground a list of draft conditions. I have reviewed these and made amendments where I consider necessary.

87. A condition would be necessary to ensure that the development is carried out in accordance with the plans and documents submitted with the application to ensure adherence to the principle of the proposed development hereby approved. As the amended scheme does not include a description of the proposed mix of units it would be necessary to secure control of these details at this stage and a condition is included for that purpose.

88. In order to provide certainty, conditions specifying the approved access drawings and the maximum number of dwellings permitted would be necessary.

89. Whilst the PPG does not readily advocate the use of pre-commencement conditions I consider that these are required in this instance for details of archaeological investigations, contamination, its remediation and certification, a construction method statement and times of building activities, full details of internal roads and surface water drainage and flooding scheme and vehicle turning within the site and biodiversity in line with the outline mitigation strategies for protected species. These conditions are necessary as pre-commencement conditions to ensure that the construction of this development can proceed in a way which protects the living conditions of neighbouring occupiers and those of future occupiers in the interests of highway safety and the protection of the site's biodiversity.

90. Given that the completed Section 106 agreement includes provisions for the maintenance of open space within the site a condition requiring the details of the management company which will oversee this would be necessary. Given the proximity of the A12, a condition would be necessary to mitigate any effects of noise to protect living conditions of future occupiers.

91. Conditions to control the proposed access arrangements, car parking, turning areas, visibility splays, pedestrian footways, and vehicle access to each property including gradients and materials would be necessary in the interests of highway safety.

92. Conditions requiring details of cycle parking and vehicle electric charging points are also required before occupation of the accommodation to ensure the scheme complies with adopted policy for sustainable modes of travel. Proposed bus stops would be required for the same reason.

93. Given the proximity of watercourses to the site a condition requiring details of culverting and bridging including arrangements for their management is required in the interests of both highway safety and flood management.

*Stephen Wilkinson*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall be begun not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan 619-OA-01 and Access plan 619-OA-03.
- 5) The development shall comprise of no more than 27 residential units.
- 6) Any reserved matters application seeking approval of scale and layout shall include a detailed schedule of the proposed housing mix, to be approved by the local planning authority through the approval of the reserved matters application. No development shall commence until the housing mix schedule has been approved as part of the reserved matters and the development shall be carried out in accordance with the details approved. The detailed schedule should include the following:
  - plot number,
  - the type of dwelling,
  - the number of storeys,
  - the number of bedrooms and bed spaces,
  - the size of the outdoor private amenity space
  - the number and sizes of parking and garage spaces provided.
- 7) No works shall take place until the implementation of a programme of archaeological work has been approved, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the local planning authority. The scheme shall include an assessment of significance and research questions, and;
  - a) the programme on methodology of site investigation and recording
  - b) the programme for post investigation assessment
  - c) provision to be made for analysis of the site investigation and recording
  - d) provision to be made for publication and dissemination of the analysis and records of the site investigation
  - e) provision to be made for archive deposition of the analysis and records of site investigation

f) nomination of a competent person or persons/organisation to undertake the works

The site investigation shall thereafter be completed prior to development or in such other phased arrangement, as approved, in writing, by the local planning authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Statement of Investigation and approved and the provision made for analysis, publication and dissemination of results and archive deposition.

- 8) No work shall take place until an investigation and risk assessment provided with the planning application has been completed in accordance with the scheme to assess the nature and extent of any contamination on the site whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority and the report of the findings must include:
- i) a survey of the extent, scale and nature of contamination including contamination by soil gas and asbestos;
  - ii) an assessment of the potential risks to
    - human health
    - property (existing or proposed) including buildings crops livestock pets Woodland and service lines and pipes
    - adjoining land
    - groundwaters and surface waters
    - ecological systems
    - archaeological sites on ancient monuments
  - iii) an appraisal of remedial options and proposal of the preferred options
- This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11 and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: technical guidance for applicants and developers'.
- 9) No works shall take place until the detailed remediation scheme to bring this site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and their natural and historical environment has been prepared and then submitted to, and approved in writing, by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection act 1990 in relation to the intended use of the land after remediation.
- 10) No work shall take place other than that required to carry out remediation. The approved remediation scheme must be carried out in

accordance with the details approved. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

- 11) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the local planning authority. An investigation risk assessment must be undertaken in accordance with the requirements of condition 7 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to approval in writing from the local planning authority. Following completion of measures identified in the approved remediation scheme the verification reports must be prepared which is a subject of approval in writing of the local planning authority in accordance with condition 9.
- 12) Prior to the first occupation/use of the development, the developer shall submit to the local planning authority a signed certificate 2 confirm that the remediation works have been completed in accordance with the documents and plans detailed in condition 9.
- 13) No works shall take place including any demolition, until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period and shall provide for details for:
  - the parking of vehicles of both side operatives and visitors
  - hours of delivery and of work
  - loading and unloading plant and materials
  - storage of plant and materials used in constructing the development
  - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
  - wheel washing facilities
  - measures to control noise
  - measures to control the emission of dust during construction, and
  - a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 14) Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for the maintenance of such areas shall be submitted to and approved in writing by the local planning authority. Such details as have been approved, shall thereafter continue unless otherwise subsequently approved, in writing by the local planning authority.
- 15) No demolition or construction works shall take place outside of the following times:
  - Weekdays 08:00 – 18:00 hours
  - Saturday's 0800- 13:30 hours

- Sundays and Bank Holidays - no working
- 16) A scheme that shows how the design and layout avoids exposure of habitable rooms to noise levels that exceed the following criteria:  
60dB LAeq 16 hours (daytime, 07:00-23:00, outside)  
55dB LAeq 8 hours (night, 23:00-07:00, outside)
- In addition, the scheme shall demonstrate how the noise levels in external amenity spaces will not exceed 55dB LAeq 16 hours (daytime) shall be submitted to and approved in writing by the local planning authority.
- The development shall thereafter be carried out in accordance with any details approved and shall be retained in accordance with these details thereafter.
- 17) Prior to the first occupation of the development, the proposed estate road, at its bell mouth junction with Colchester Rd, Braiswick shall be provided, in accordance with RPS Access Arrangements Drawing JNY9281-01-A, with 10m radius kerbs return to an access road carriage way width of 5.5m and flanking foot ways 2m in width returned around the radius kerbs extending 25m westwards and eastwards. The new road junction shall be constructed at least to binder course prior to the commencement of any other developments including the delivery of materials.
- 18) Prior to the proposed access being brought into use, vehicular visibility splays of 215m westwards by 2.4m by 70m easterly as measured along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.
- 19) Prior to the commencement of development details of the estate roads and footways (including layout, levels, gradients, surfacing, sealing and means of surface water drainage) shall be submitted to and approved in writing by the local planning authority and the development to be constructed in accordance with the approved details.
- 20) Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of the development, of a design shall be submitted to and approved in writing with the local planning authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the development hereby permitted within the site any shall be maintained free from obstruction and retained thereafter.
- 21) Prior to the first occupation of each dwelling on the proposed development, the proposed vehicle access for each dwelling shall be constructed at right angles to the carriageway or highway boundary, to a width of 3.7m and each shared vehicular access shall be constructed at right angles to the highway boundary to a width of 5.5m and provided with an appropriate drop kerb vehicle crossing of the footway/highway verge the specifications of the Highway Authority. These details require approval of the local planning authority and the scheme implemented in accordance with them and retained thereafter.

- 22) The gradient of the proposed vehicle access/garage/drive hardstanding shall be no steeper than 8% (1:25).
- 23) No unbound materials shall be used in the surface treatment of the proposed vehicular access within six metres of the highway boundary.
- 24) Each internal estate road junction shall be provided with a clear to ground level visibility splay with dimensions of 25m by 2.4m by 25m on both sides. Such visibilities splays shall be provided before the road is first used by vehicular traffic and shall be retained and maintained free from obstruction clear to ground thereafter.
- 25) Prior to commencement of the proposed development, a vehicle turning facility for service and delivery vehicles of at least size 3 dimensions and of a design approved in writing by local planning authority, shall be provided within the site which shall be retained and maintained free from obstruction thereafter.
- 26) Prior to first uses proposed access, details of the construction of the future maintenance of the necessary bridging or piping in the drainage ditch/water course shall be submitted to and approved in writing by the local planning authority.
- 27) Prior to the commencement of the proposed development two bus stops, on either side of Braiswick Road including pram crossings to connect to each other, shall be fully implemented in accordance with details to be approved in writing by the local planning authority. The approved details shall include:
  - A new bus stop in the vicinity of the vehicle access to the site eastbound including 1No. new shelter raised kerbs, timetables post and flag, and
  - A new bus stop west bound opposite an adjacent vehicular access including level entry kerbing, new post flag and timetable and pedestrian waiting or standing.
- 28) No work shall take place until the detailed surface water drainage scheme for the site based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and certified as technically acceptable in writing by the SUDS approval body or other suitably qualified person. The certificate shall thereafter be submitted by the developer to the local planning authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the local planning authority. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:
  - limiting discharge rates to 6.5l/s for all storm events up to and including the 1:100 year rate plus 40% allowance for climate change
  - demonstrate that features are able to half drain within 24 hours of a one in 30 year event plus climate change. If this is not possible the drain down in 24 hours should provide room for a subsequent morning 10 year event.

- final modelling and calculations for all areas of the drainage system
- detailed engineering drawings of each component of the drainage scheme
- a final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor change to the approved strategy.

The scheme shall subsequently be implemented prior to occupation

- 29) No works shall take place until a scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to and approved in writing by the local planning authority. The scheme shall be subsequently implemented as approved.
- 30) No works shall take place until a Maintenance Plan detailing the arrangements including who is responsible for the different elements of the surface water drainage systems and the maintenance activities/frequencies, has been submitted to and approved, in writing by the local planning authority. Should any part be maintainable by a management company, details of long term funding arrangements should be provided.
- 31) The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the local planning authority.
- 32) Prior to commencement of the development precise details for the enhancement and mitigation of biodiversity on and around the site in the form of appropriate features on and around the buildings, hereby approved shall be submitted to and approved in writing by the local planning authority. The details should broadly accord with the Outline Mitigation strategies for Bats, Reptiles and Amphibians as set out in paragraphs 2.3, 14, 3.3.3 and 4.3.9 of the Protected Species Survey but should not be limited to these species.

The approved features shall be installed and the mitigation strategies commenced prior to first occupation of dwellings and shall thereafter be retained and implemented as such.

**APPEARANCES**

<b>For the Appellant</b>	
Richard Turney Barrister	Landmark Chambers
Nicola Morris	Senior Solicitor Rydon Homes Ltd
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<b>Interested party</b>	
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