
Land adjoining The Gables, Kelvedon Road, Tiptree, CO5 0LU

Planning Balance and Planning Policy

Summary Proof of Evidence of Mr James Firth MRTPI

PINS Reference:
APP/A1530/W/21/3278575

Colchester Borough Council Application Reference:
190647

1. Principle of Development and The Tilted Balance

1.1. With regards to the titled balance, consideration is needed as to whether the most important policies for determining the application are out of date.

1.2. **Most important policies**

Current Adopted Development Plan

1.3. Those policies from the adopted Development Plan that I consider most important are:

- Policy SA TIP1 - Residential sites in Tiptree
- Policy SA TIP2 - Transport in Tiptree
- Development Policies DP5 – Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- Policy SA H2 – Gypsy and Traveller Accommodation
- Policy ENV1 – Environment

Policy SA TIP1 - Residential sites in Tiptree

1.4. Notwithstanding the Council's position of housing land supply, it is clear that Policy SA TIP1 does not allocate sufficient sites to meet needs over the Section 1 Local Plan period. The current settlement boundary for Tiptree in this respect is out of date. A revised policy for Tiptree is being progressed as part of the Section 2 Local Plan and I consider weight is attributable to this.

Policy SA TIP2 - Transport in Tiptree

1.5. Given the reference to allocated sites that were identified to meet previous housing targets, and that the highway network changes and improvements identified have already been undertaken in this respect, I consider this part of the policy to be out of date.

Development Policies DP5 – Appropriate Employment Uses and Protection of Employment Land and Existing Businesses

1.6. The appeal site has not been considered as forming part of employment land supply as set out in the Council's own evidence base. The allocation of part of the site for employment purposes has therefore clearly been overtaken by events since its identification on the policies map. Policy DP5 is in this respect out of date.

Policy SA H2 – Gypsy and Traveller Accommodation

- 1.7. I consider this policy remains up to date. The appeal proposal ensures there will be no net loss of gypsy and traveller provision through ensuring the currently residents can relocate to the nearby site at The Paddocks.

Policy ENV1 – Environment

- 1.8. The appeal site sits outside the current settlement boundary and the development is therefore recognised as being in conflict. The settlement boundary however does not reflect the latest housing targets within the Section 1 Local Plan or the acknowledged need for review of this settlement boundary. Thus the settlement boundary is acknowledged to be no longer fit for purpose insofar as it operates as a constraint on development recognised as being necessary. As such it is clearly out of date. The need for this review of the settlement boundary is further set out in the Section 2 Local Plan, including in Policy SS14 specifically. Policy SS14 directs growth to two areas, one of which is to the north/north west of Tiptree in the vicinity of the application site. I consider this a significant material consideration given the advanced stage of the plan. Policy ENV1 and the settlement boundary for Tiptree should be considered out of date in this context.

Summary in relation to Current Development Plan

- 1.9. Of the basket of most important policies above, the majority of those policies are out of date and have been overtaken by events since their adoption. I therefore consider the tilted balance is engaged.

1.10. **Section 2 Local Plan**

- 1.11. The Section 2 Local Plan is at an advanced stage Having regard to the Section 2 Local Plan, the most important policies would be as follows:

- Policy SS14: Tiptree
- Policy SG4: Local Economic Areas
- Policy DM11: Gypsies, Travellers, and Travelling Showpeople
- Policy ENV1: Environment

Policy SS14: Tiptree

- 1.12. The policy identifies a requirement for a minimum of 400 homes which is to be achieved by growth outside of the settlement boundary, but does not set out a clear mechanism for applications to be assessed prior to any neighbourhood plan that may or may not come forward.
- 1.13. The settlement boundary for Tiptree has been carried forward from the last Local Plan with the addition of arrows indicating preferred directions of growth.

- 1.14. The position therefore is that the Plan recognises that the existing settlement boundary (revised as part of the Site Allocations DPD 2010) is out of date for this purpose and has been superseded by the requirements of the more recent Development Plan, including the adopted Section 1 Plan and the requirements of Policy SS14 in particular. The Plan does not, however, grapple with the issue of defining an appropriate settlement boundary and relies on the Neighbourhood Planning process to define the new boundaries. This leaves the existing settlement boundaries in place and something of an anomaly in planning terms. The settlement boundary referred to in what could be a very recently adopted Local Plan would be out of date. The operative part of the policy is as follows:

“Proposals for development outside of the settlement boundary, or settlement boundary defined by the Tiptree Neighbourhood Plan once adopted, will not be supported”

- 1.15. This will mean that unless and until the new fit for purpose boundary is identified, reliance on the “old” boundary renders the policy instantly out-of-date and engages consideration of the application of the tilted balance.

Policy SG4: Local Economic Areas

- 1.16. The allocation of part of the site for employment however has been overtaken by the Council’s now stated position on employment including the responses on the application from the Council’s policy team. For this purpose the employment allocation at Tiptree is considered out of date.

Policy DM11: Gypsies, Travellers, and Travelling Showpeople

- 1.17. The policy is not considered to be out of date.

Policy ENV1: Environment

- 1.18. To the extent that the policy relies on the settlement boundary for Tiptree this is considered out of date due to the requirements of Policy SS14 as set out above in relation to that policy. Areas of the site are already previously developed or allocated for employment or gypsy and traveller accommodation purposes. I therefore consider this lessens the degree of conflict with Policy ENV1.

Summary in relation to Emerging Section 2 Local Plan

- 1.19. When assessed as a whole, the most important policies for determination the application are out of date. I therefore consider the tilted balance is engaged.

2. Planning Balance Assessment

2.1. A summary of the social, economic and environmental benefits and adverse impacts is set out below.

Benefits

- Provision of Affordable Housing (social benefit) – Very Substantial weight
- Provision of 130 homes (social benefit) – Very Substantial weight
- Biodiversity Net Gain (environmental benefit) – Significant weight
- Contribution to the economy (economic benefit) – Significant weight
- Sustainable Location consistent with settlement hierarchy (social and environmental benefit) - Moderate weight
- Optimisation and efficient use of land (social and environmental benefit) – Moderate weight
- Tree canopy (environmental benefit) – Moderate weight
- Connectivity improvements (social benefit) – Moderate weight
- Bespoke Design (social, environmental and economic benefit) – Limited weight
- Safeguarding route for a road link / wider connectivity (social, environmental and economic benefit) – Limited weight
- Off-site environmental mitigation / Recreational Avoidance Mitigation Strategy (environmental benefit) – Limited weight

Adverse impacts

- Conflict with parts of the Development Plan (social, environmental and economic)– Moderate weight
- Harm to the landscape as a result of the development (environmental) – Moderate weight
- Impacts on the highway network (social, environmental and economic) – Moderate weight
- Impacts on local infrastructure (social, environmental and economic) – Moderate weight
- Conflict with the existing employment allocation (economic) – Limited weight
- Conflict with existing gypsy and traveller allocation (social and environmental) – Limited weight
- Impact on the emerging Neighbourhood Plan (social, environmental and economic) – Limited weight

2.2. **Conclusions**

2.3. I consider that when assessed as a whole there is limited conflict and the proposals are in accordance with the plan as a whole.

- 2.4. I conclude that on the titled balance the adverse impacts of granting permission do not significantly and demonstrably outweigh the benefits, and that planning permission should be granted.
- 2.5. On a flat balance basis, the relevant material considerations including the benefits of the scheme in social, economic and environmental terms as set out above, combined with the limited areas of conflict with the development plan and lack of harm, are also considered such to outweigh the adverse impacts and support the grant of planning permission.

3. Putative Reasons for Refusal

Design

- 3.1. The evidence from David Plant of DAP Architects shows the scheme does not constitute poor design and meets the requirements of the NPPF 2021 and allied National Design Guide when considered as a whole.

Impact on Protected Areas

- 3.2. Mitigation for off-site protected areas is secured through the draft section 106 legal agreement.

Lack of Mechanism to secure mitigation/obligations/financial contributions

- 3.3. Other required mitigation is also secured through the draft legal agreement including a substantial section 106 package in line with the requests from the Local Authority.

Highways

- 3.4. The highway submissions and Statement of Common Ground show the scheme will not cause a severe impact on the highway network. The scheme includes a pedestrian and cycle link from the site to Kelvedon Road, and improvements to footway and crossing points. Residential Travel Packs can be provided by condition to encourage new residents to use of sustainable modes of transport.