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

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Rebuttal Proof of Evidence

Sam Hollingworth MRTPI

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

Colchester Borough Council Application Reference:  
190647

## 1. Scope of this Rebuttal

1.1 This rebuttal addresses points raised in Ms Jones' PoE in respect of appeal APP/A1530/W/21/3278575.

1.2 I address the following key points arising from Ms Jones's PoE to assist the Inspector's consideration of the above appeal:

- Past delivery rates compared to the Council's record of projecting supply, and whether this suggests one can have confidence in the Council's current projections;
- Past housing delivery rates, and their relevance in considering the extent of current need and supply;
- Housing need, including affordable housing need, in Tiptree;
- The Tiptree Neighbourhood Plan, and the extent to which one can rely on this to meet housing need either now or in the future.
- The extent of affordable housing need in Colchester, and the prospects of this being met in full.

1.3 Having regard to the above, I conclude on the weight that I consider should be afforded to the appeal's provision of housing, including affordable housing.

## 2. Housing Land Requirement and Five Year Housing Land Supply

2.1 Ms Jones' POE focuses on housing delivery, rather than housing need. It is recognised that the latter is addressed instead through Ms Howick's PoE.

2.2 At paragraph 4.2 of Ms Jones' PoE it is stated that:

*"The [Council's] approach to the 5 Year Housing Land Supply has been found to be robust as is demonstrated by the results of the Housing Delivery Test (see further detail below). The Council has not over estimated delivery but has in fact ensured delivery has exceeded the targets".*

2.3 The Housing Delivery Test (HDT) and the five-year housing land supply are two entirely separate entities. The former measures the recent housing delivery record, whilst the latter project future supply.

2.4 It is possible to have met recent housing delivery targets (and thus record an HDT measure of more than 100%) but to not have an adequate supply to meet future needs.

2.5 A strong HDT measurement does not necessarily mean that an LPA has a strong record in accurately estimating housing supply.

2.6 Separately, it is entirely possible for an LPA to both overestimate delivery, and to yet still have a record of meeting housing targets.

2.7 In terms of how the Council's projections relate to subsequent actual delivery, Housing Land Supply (HSL) Position Statements are only available as far back as 2018 on the Council's website. As such, possible examination of how accurately past projections have translated to actual completions is limited – the longest period of projections for which subsequent completion date available is the three years (2018-2021), covered by the HLS Position Statement 2018. However, even over this short period of time, the Council's projections have consistently overestimated actual completions, as shown in the below table.

HLS Position Statement	Period for which projections made and completion data has subsequently become available	Projected	Actual	Difference
2018	2018-2021	3,513	3,030	-483
2019	2019-2021	2,292	1,865	-427
2020	2020-2021	1,031	741	-290

- 2.8 Even in the case of the HLS Position Statement 2020 – for which only a single year of actual completion data has subsequently become available from the years it projects – the Council's projected completions are significantly greater than actual completions.
- 2.9 Separately, on two occasions in recent years, through S78 appeals, the Colchester Borough Council has been found to have overstated its deliverable housing land supply. In an April 2020 appeal decision<sup>1</sup>, the Council had claimed to have a 5.13-year housing land supply, but it was subsequently concluded it could only demonstrate a 4.7-year supply. In a different appeal decision<sup>2</sup> in August 2020, through which the Council's purported housing land supply was again scrutinised, the Appeal Inspector concluded the Council's deliverable housing land supply was 5,833 dwellings, rather than the 6,108 the Council had claimed.
- 2.10 Having regard to all of the above, whilst the Council can demonstrate an NPPF-compliant five-year housing land supply, I consider the Council's recent record in projecting housing delivery gives rise to real concerns as to whether the number of new homes it now projects will actually be delivered.
- 2.11 Notwithstanding the Council's record of overestimating housing delivery, I agree with Ms Jones' view (paragraph 4.13) that the annual housing requirement that has been set for Colchester has been regularly met since 2012. It is the fact that housing targets have been consistently met over a sustained period of time in Colchester that has enabled a 'real world' test of whether the requirements that have been set for Colchester are reflective of needs.
- 2.12 Whereas in other LPAs it can often be argued that worsening affordability or other market signals indicating an undersupply of homes are the result of targets having failed to have been met – and that market conditions / affordability may improve if supply were increased to meet targets – this is not the case for Colchester.

<sup>1</sup> Appeal reference APP/A1530/W/19/3223010

<sup>2</sup> Appeal reference: APP/A1530/W/20/3248038

- 2.13 Instead, Colchester has seen worsening affordability, increased rental costs, and increased house prices – all to a greater degree than the national average – *despite* having met housing targets over a sustained period of time.
- 2.14 Worsening affordability, increased rental costs, and increased house prices are very real issues, with very real consequences for those affected by them.
- 2.15 There are a myriad of negative consequences of the current national ‘housing emergency’ (the term the housing charity, Shelter, uses to describe the current housing situation in England), many of which are linked to the lack of adequate provision of affordable housing. Such issues go beyond simply the issue of overcrowded accommodation, home ownership being unobtainable to many, or homelessness (all significant problems, of course). For example, a survey by Shelter<sup>3</sup> found that one in seven people in England in 2021 had to cut down on essentials such as food or heating to pay for their rent or mortgage; nearly a quarter of people (23%) are living in homes with significant damp, mould or condensation issues; and 6% are living in accommodation that harms their family’s physical health. These issues are not of course specific to Colchester – they are national issues. But they underline the need to avoid complacency in respect of housing provision – simply because a Local Planning Authority is able to demonstrate an NPPF-compliant five-year housing land supply and its Housing Delivery Test measurements have exceeded 100%, does not mean that it is free from any housing issues.
- 2.16 Circumstances in the neighbouring administrative area of Chelmsford exemplify how a five-year housing land supply and strong Housing Delivery Test measurements do not render an area free of housing issues. Chelmsford City Council has declared a Housing Crisis, and in doing so has recognised that whilst ‘on paper’ it is meeting housing needs (in its case, a 6.99-year housing land supply and a Housing Delivery Test 2021 measurement of 140%) the reality experienced by its communities (ever increasing costs and worsening affordability making home ownership unobtainable, families living in overcrowded accommodation, households having to remain in unsuitable accommodation, significant weighing in times for those who are homeless) suggests needs are going unmet.
- 2.17 The need to significantly boost housing land supply, as per paragraph 60 of the NPPF, applies regardless of an LPA’s five-year housing land supply position, as confirmed in *Cron dall*<sup>4</sup>. The need to afford weight to this policy objective is particularly apparent in respect of Colchester, for the reasons set out in my PoE.

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<sup>3</sup> Denied the Right to a Safe Home: Exposing the Housing Emergency (Shelter, 2021)

([https://assets.ctfassets.net/6sxvmdn0s/415ro3YWRxffE7sXqWI1bO/9fc9f11543e50fc4a49f2e13cfda611d/Shelter\\_Denied\\_the\\_right\\_to\\_a\\_safe\\_home\\_Report.pdf](https://assets.ctfassets.net/6sxvmdn0s/415ro3YWRxffE7sXqWI1bO/9fc9f11543e50fc4a49f2e13cfda611d/Shelter_Denied_the_right_to_a_safe_home_Report.pdf))

<sup>4</sup> *Cron dall PC v SSHCLG* [2019] EWHC 1211 (Admin)

**2.18** In addition, as confirmed in *Peel*<sup>5</sup> whilst the issue of whether an LPA is able to demonstrate a five-year housing land supply is entirely quantitative (and there is no suggestion that the housing type or tenure has a role within the calculation), this is not to say that qualitative issues such as type and tenure of the supply compared to need are not relevant to the planning balance.

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<sup>5</sup> *Peel Investments (North) Ltd v SSHCLG* [2019] EWHC 2143 (Admin)

### 3. Tiptree Housing Need

#### Past Delivery in Tiptree

- 3.1 Ms Jones makes reference at paragraph 5.7 of her PoE to “a strong track record of delivery of housing in Tiptree via the Local Plan process”, and suggest that there is “no reason to doubt...the delivery of any future allocations through the plan making process in Tiptree”.
- 3.2 However, the current Development Plan does not allocate any land for residential development in Tiptree. Instead this has been left to the Tiptree Neighbourhood Plan, which failed at the Examination stage.

#### Plan-making process

- 3.3 Ms Jones states that:

*“The most up-to-date, relevant, and authoritative evidence concerning local housing need is that which lies behind the emerging section 2 Colchester Local Plan (CLP)... It is that Plan and the evidence behind it that establishes the level of housing need across the entire Housing Market Area (including the Borough) and provides for its distribution across the Borough – including to Tiptree.”*

- 3.4 At paragraph 5.13 Ms Jones acknowledges that the key evidence in the determination of housing requirements for the LPS1 was the OAHNS 2016. However, what should be recognised is that this does not seek to assess housing needs at the sub-Borough level.
- 3.5 Ms Jones’ goes on to describe how the decision to distribute the housing requirement identified through the OAHN 2016 was arrived at through the preparation of the LPS2. None of the explanation or the evidence base documents cited appear to relate to the issue of housing need within Tiptree itself, and none suggest a ceiling in terms of the number of homes Tiptree could accommodate. At paragraph 5.16 of her PoE Ms Jones notes constraints present in the settlements of Dedham (environmental) and Marks Tey (infrastructure capacity / improvements), but notably is not able to point to any constraints that may limit the capacity of Tiptree to accommodate additional housing numbers.
- 3.6 At paragraph 5.32, Ms Jones suggest the LPS2 “establishes the quantum of housing of 600 dwellings to be delivered over the plan period 2017 to 2033 in Tiptree.”
- 3.7 However, it is important to recognise that the LPS2 establishes that a *minimum* of 600 dwellings will be delivered in Tiptree over this period.

- 3.8 There is no suggestion within the LPS2 that there is a ceiling for housing delivery within Tiptree.
- 3.9 On the contrary, it is important to recognise that the reference to the number of new homes to be provided in Tiptree as a minimum was introduced through a main modification following Examination hearing, i.e. absence to reference to the number of new homes as a minimum was considered to be unsound and requiring correction (as per Section 20(7) of the Planning and Compulsory Purchase Act (2004)), main modifications may only be made to a submitted Local Plan where necessary to ensure it is sound).
- 3.10 The Council's evidence presented to the LPS2 Examination suggested a lack of a ceiling to growth in Tiptree, and an ability for the stated quantum to be exceeded. This included through LPS2 Topic Paper 2 and LSP2 Topic Paper 6. The housing trajectory submitted to the LPS2 Examination by the Council within Topic Paper 2 suggested 600 dwellings would be delivered through the Tiptree Neighbourhood Plan in addition to 200 dwellings at Barbrook Lane. There was no suggestion that this figure was unfeasible or unsuitable or inappropriate.
- 3.11 In Topic Paper 6 prepared by the Council in respect of the LPS2 Examination, at paragraph 4.3 it was stated: "*The overall housing target of 600 dwellings for Tiptree remains unchanged. The 200 homes at Barbrook Lane will count towards the overall housing target. However, the Tiptree Neighbourhood Plan will determine whether a higher figure is appropriate*". This demonstrates the Council had no concerns with a figure of more than 600 dwellings being delivered in Tiptree. Again, there is no reference to a ceiling.
- 3.12 It should be noted that Policy SS14 of the submitted LPS2 had simply stated that allocations in Tiptree would "*deliver 600 dwellings*". Main Modification MM71 introduced reference to the number (400, accounting for the Barbrook Lane development allowed on appeal) as a minimum.
- 3.13 Through the Examination of the LPS2, concerns were expressed as to the proposed number of new homes to be directed to Tiptree: the justification for limiting (as a decision-maker may have inferred from the wording of SS14 in the submitted LPS2) this to 600, and why this – rather than a greater – number. The expression of the number of new homes as a minimum resolves this concern. Naturally, it is important for decision-makers to then apply this element of the policy – to treat the figure as a minimum.
- 3.14 At paragraph 5.23, Ms Jones notes Tiptree Parish Council remain committed to the preparation of a Neighbourhood Plan (TNP) and asserts that "*There are currently no concerns regarding their ability to deliver a Neighbourhood Plan*".
- 3.15 I do not doubt the Parish Council's commitment or desire to produce a TNP.



- 3.16 However, it cannot be overlooked that there has already been one failed attempt at preparing a TNP.
- 3.17 The previous attempt at preparing a TNP failed at the Examination stage, with the Examiner identifying a host of concerns in circumstances where it can reasonably be inferred the Council had no such concerns. As Mr Firth notes in his evidence, the publication of the Regulation 14 iteration of a new TNP – the approach taken and, in particular, the SEA – give rise to concerns that the new TNP will be subject to the same issues and concerns as that which were the downfall of the previous attempt.
- 3.18 Even if one were to overlook evident concerns with the emerging TNP, the timetable it suggests is wholly unrealistic. The Regulation 14 Draft TNP suggests the following timescales for its production:
- March 2022: Six weeks consultation on revised proposed Neighbourhood Plan (Regulation 14).
  - June–Nov 2022: Regulation 16 consultation, examination and referendum on Neighbourhood Plan.
  - Dec 2022: Neighbourhood Plan is made.
- 3.19 Consultation on the Regulation 14 iteration is scheduled to end on 1 May 2022.
- 3.20 To properly consider the results of this consultation, update the TNP to reflect its findings, and then publish the TNP and all supporting material for Regulation 16 consultation just one month from the close of the Regulation 14 consultation is unfeasibly optimistic (particularly if the responses to the consultation are to be given due consideration).
- 3.21 The Regulation 16 consultation itself must last for a minimum of six weeks, taking it to at least mid-July if it were to begin in June. This would leave four months in which for the Examination to take place, the Examiner's Report to be issued, and the a referendum to be organised and held.
- 3.22 It is relevant to consider how this timescale compares to that of other Neighbourhood Plans that have recently been made in the Borough.
- 3.23 Three Neighbourhood Plans have been made in the last three years in Colchester Borough (in addition to two back in 2016). Two others (Marks Tey and West Mersea) are subject to referenda in March 2022. Timescales for their production were as set out in the table below:

	Eight Green	Ash	Wivenhoe	West Bergholt	Marks Tey	West Mersea
<b>Regulation 14 consultation</b>	February 2018		July 2016	May 2018	February 2020	October 2020
<b>Regulation 16 consultation</b>	January 2019		February 2018	March 2019	February 2021	July 2021
<b>Examiner's Report</b>	September 2019		March 2019	May 2019	October 2021	December 2021
<b>Referendum</b>	November 2019		May 2019	September 2019	March 2022	March 2022
<b>Plan made</b>	December 2019		May 2019	October 2019	n/a	n/a

3.24 On average, recent Neighbourhood Plans have taken over 22 months to progress from the start of the Regulation 14 consultation until referendum.

3.25 It should also be recognised that the preparation of the TNP is a technically challenging exercise, as the fate of the first attempt demonstrated. Not all Neighbourhood Plans are required to be supported by SEA, and the emerging LPS2 delegates significant responsibilities to it.

3.26 As Mr Firth sets out in his evidence, there are clear concerns regarding the Draft TNP and its accompanying SEA, and the host of issues that the Parish Council will need to grapple with as it progresses the TNP. Whilst case law<sup>6</sup> suggests defects can be cured, it will necessarily take time to do so. Alternatively, if such issues are not addressed, there is a distinct possibility that the TNP will again fail at the Examination stage, or even be at risk of legal challenge if it a version imbued with such defects were to nevertheless succeed at the Examination stage.

3.27 Consequently, it is unlikely that there will be a TNP in place to guide development for some time yet, if at all.

### Meeting Housing Need in Tiptree

3.28 Ms Jones refers to development coming forward to meet the “*housing requirement of 600 dwellings as identified in the Section 2 CLP*”. To reiterate, the figure is a *minimum*, and the LPS2 does not suggest Tiptree’s housing needs are limited to 600 new homes for the duration of the plan period.

3.29 Ms Jones refers to delivery of 64 dwellings through windfall completions over the last 4 years, 2017-2021. However, as Ms Jones acknowledges, one of the sites contributing to this was the

<sup>6</sup> *Cogent Land LLP v Rochford District Council* [2012] EWHC 2542

former home of Tiptree United Football Club, and as such is a somewhat exceptional situation that is unlikely to be repeated. Discounting the contribution from this site, Ms Jones notes that 25 dwellings have been delivered through windfall. Ms Jones this “*would result in 75 dwellings being delivered during the remaining of the plan*”, presumably on the assumption that windfall delivery in Tiptree would continue at the same rate as it has over the last four years.

3.30 However, the NPPF states:

*“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”<sup>7</sup>.*

3.31 The NPPF is clear that historic rates alone cannot be relied upon in making assumptions regarding future delivery rates.

3.32 In any case, a period of four years is a short period of time to base future housing delivery trends on. In the last four years, there have been instances where Colchester Borough Council has been unable to demonstrate a five-year housing land supply, and during that time that has been no up-to-date Local Plan. In these circumstances, it cannot be assumed that the last four years represent a typical windfall contribution for Tiptree, let alone one that will necessarily continue in the future.

3.33 Furthermore, windfall developments coming forward in Tiptree are unlikely to be of a scale such that they are required to make a contribution to affordable housing needs.

3.34 As such, any reliance on windfall – in particular to meet affordable housing needs – would be misplaced.

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<sup>7</sup> NPP Paragraph 71

## 4. Borough Affordable Housing Need

- 4.1 Ms Jones identifies the OAHNS 2016 as providing the most recent assessment of affordable housing needs in the District.
- 4.2 Ms Jones concludes that the OAHNS 2016 identifies an affordable housing need totally 278dpa, comprising 266dpa rent and 12dpa shared ownership.
- 4.3 This differs from the figures I cited in my PoE. In my evidence, I had taken a figure of 267dpa as the affordable housing need from Table 8.1 of the OAHNS 2016 (extract shown below):

**Table 8.1: Affordable housing need and the OAN, dwellings per annum, 2013-37**

Dwellings per annum	Affordable housing need
Braintree	212
Chelmsford	175
Colchester	267
Tendring	160
HMA	814

Source: HDH, PBA

- 4.4 Ms Jones' PoE appears to have summed the figures from the Strategic Housing Market Assessment Update (December 2015) ('SHMA 2015') to determine a total affordable housing need for the Borough of 278dpa. This would appear to be an appropriate approach.
- 4.5 In terms of affordable housing delivery, Ms Jones' PoE suggests 1,045 affordable homes were delivered in Colchester 2013 – 2021.
- 4.6 I had calculated 1,021 based on Annual Monitoring Reports for the years 2014-2021 (years for which data is available via the Council's website), together with a total of 72 affordable homes for 2013/14 based on reported completions from the relevant DLUHC Live Table<sup>8</sup>. I note Ms Jones' PoE reports 96 affordable completions for 2013/14. The different figures for 2013/14 appear to be the cause of the discrepancy between the total affordable housing completions figure used in my PoE, and the one in Ms Jones'.

<sup>8</sup> DLUHC Live Table 1008C: Total additional affordable dwellings provided by local authority area - Completions

4.7 Whichever figure one uses, there is an acute need for affordable housing in Colchester which is currently going unmet.

4.8 Table 1 below sets out the affordable housing completions as per Ms Jones' PoE, and considers the shortfall against need at each year – and finally in total – against an affordable housing requirement of 278dpa (as per the SHMA 2015).

Year	Affordable dwellings delivered	% of total net dwellings delivered	% of annual affordable requirement met	Cumulative shortfall
2013/14	96	13.2	34.5	182
2014/15	259	26.2	93.2	201
2015/16	106	11.4	38.1	373
2016/17	100	10.7	36.0	551
2017/18	132	12.5	47.5	697
2018/19	110	9.4	39.6	865
2019/20	202	18	72.7	941
2020/21	40	5.4	14.4	<b>1,179</b>
<b>TOTAL</b>	<b>1,045</b>	<b>13.4</b>	<b>47.0</b>	<b>-</b>

Table 1

4.9 Table 2 sets out the affordable housing completions as per Ms Jones' PoE, and considers the shortfall against an affordable housing requirement of 267dpa (as per the OAHNS 2016).

Year	Affordable dwellings delivered	% of total net dwellings delivered	% of annual affordable requirement met	Cumulative shortfall
2013/14	96	13.2	36.0	171
2014/15	259	26.2	97.0	179
2015/16	106	11.4	39.7	340
2016/17	100	10.97	37.5	507
2017/18	132	12.5	49.4	642
2018/19	110	9.4	41.2	799
2019/20	202	18	75.7	864
2020/21	40	5.4	15.0	<b>1,091</b>
<b>TOTAL</b>	<b>1,045</b>	<b>13.4</b>	<b>48.9</b>	<b>-</b>

Table 2

4.10 Table 3 sets out the affordable housing completions used in my PoE (i.e. 72 affordable housing completions for 2013/14, as reported in DLUHC Live Tables), and considers the shortfall against an affordable housing requirement of 267dpa (as per the OAHNS 2016).

Year	Affordable dwellings delivered	% of total net dwellings delivered	% of annual affordable requirement met	Cumulative shortfall
2013/14	72	9.9	27.0	195
2014/15	259	26.2	97.0	203
2015/16	106	11.4	39.7	364
2016/17	100	10.7	37.5	531
2017/18	132	12.5	49.4	666
2018/19	110	9.4	41.2	823
2019/20	202	18	75.7	888
2020/21	40	5.4	15.0	<b>1,115</b>
<b>TOTAL</b>	<b>1,021</b>	<b>13.1</b>	<b>48.0</b>	-

Table 3

4.11 Table 4, below, sets out the affordable housing completions used in my PoE, and considers the shortfall against an affordable housing requirement of 278dpa (as per the SHMA 2015).

Year	Affordable dwellings delivered	% of total net dwellings delivered	% of annual affordable requirement met	Cumulative shortfall
2013/14	72	9.9	25.9	206
2014/15	259	26.2	93.2	225
2015/16	106	11.4	38.1	397
2016/17	100	10.7	36.0	575
2017/18	132	12.5	47.5	721
2018/19	110	9.4	39.6	889
2019/20	202	18	72.7	965
2020/21	40	5.4	14.4	<b>1,203</b>
<b>TOTAL</b>	<b>1,021</b>	<b>13.1</b>	<b>45.9</b>	-

Table 4

- 4.12 Whichever figures one uses, the shortfall in affordable housing provision since the start of the plan period is vast, and the unmet need considerable – amounting to at least 1,091 homes.
- 4.13 Taking the figures provided by Ms Jones (annual affordable of 278dpa, and 1,045 affordable homes delivered 2013-2021) the five-year affordable housing need for 2021-2026 is 2,569 homes (accounting for shortfall since 2013 in full) (1,179 + (5 x 278)). This equates to 46% of the Council's total purported five-year housing land supply. It is improbable that affordable housing needs will be met in full without additional development on top of that in the reported five-year supply.
- 4.14 It is also pertinent to note that Ms Jones' calculation of affordable housing need taken from the SHMA 2015 need differentiates between affordable rent and shared ownership, with the overall need predominantly comprising the latter – of a total affordable housing need of 278dpa, the SHMA suggests an affordable rent need of 266dpa (96% of total affordable housing need).
- 4.15 The affordable housing delivery figures cited in Ms Jones' PoE do not differentiate between affordable rent and shared ownership. However, I note that the Council's Affordable Housing Supplementary Planning Document (2011) promotes an 80:20 ratio (affordable rented: intermediate). Assuming this guidance has been broadly adhered to, the scale of unmet affordable rent housing needs is likely to be even greater than the already considerable overall unmet affordable housing needs.
- 4.16 Separately, Colchester Borough Council holds a housing register of people interested in Council or Registered Provider homes. It should be recognised that the Council's Housing and Homelessness Summary Year end 2020-21 reports there are currently 3,000 households on this register<sup>9</sup>; Colchester Borough Homes report that "*only around 20% of people on the housing register are successful in getting a home*"<sup>10</sup>; and the numbers of households on this register are described as "*ever growing*"<sup>11</sup>. By way of context, in declaring a Housing Crisis, one of the factors cited by Chelmsford City Council was the presence of over 850 households on its Housing Register<sup>12</sup> – a number that is dwarfed by that on Colchester's list.
- 4.17 It is patently clear that there is a large, growing affordable housing need in the Borough which is not being met.

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<sup>9</sup> <https://www.colchester.gov.uk/housing-and-homelessness-summary-year-end-2020-to-21/?id=&page=the--housing--register>

<sup>10</sup> <https://cbhomes.org.uk/find-a-home/apply-for-housing/how-to-apply/>

<sup>11</sup> <https://cbhomes.org.uk/find-a-home/apply-for-housing/>

<sup>12</sup> <https://www.chelmsford.gov.uk/your-council/councillors-committees-and-decision-making/calendar-of-meetings/?id=182a5697-fb1a-4556-bc23-073016129025>

- 4.18 In terms of future affordable housing provision, Ms Jones' PoE provides limited information on deliverable supply.
- 4.19 I note reference at paragraph 6.9 of Ms Jones' PoE to the Council's decision to invest in 350 affordable homes in 2019, and subsequent acquisitions in 2020 and 2021. However, no details are provided as to future projected supply in terms of deliverability, locations or timescales.
- 4.20 At paragraph 6.10, there is also reference to Council delivering 100% affordable schemes through redeveloping Council owned land, citing garage sites as an example. However, again there are no specific details to confirm when, where or number of affordable homes projected to be delivered; and whether they are on deliverable sites.
- 4.21 In addition, Ms Jones refers to Colchester Amphora Homes Developments, which she states will deliver market sale housing with 30% affordable housing. The relevance of this is unclear, as 30% affordable housing provision reflects the requirements that would apply to any developer, as per Policy DM8 of the emerging LPS2. If there are deliverable sites being brought forward by Colchester Amphora Homes Developments, then one would presume these are accounted for in the reported housing supply.
- 4.22 At paragraph 6.10 of Ms Jones' PoE, it states that affordable housing can also be provided through exception sites in accordance with NPPF para 72. Ms Jones confirms the Council is unable to quantify the provision from this source, but suggests these are capable of contributing towards supply. However, no evidence is provided of projected supply from this source, or even what contribution rural exception sites have made to affordable housing delivery in the past.
- 4.23 The Council does not appear to be able to confirm the deliverable supply of affordable homes for the Borough, which is disconcerting given the scale of need.



## 5. Tiptree Affordable Housing Need

- 5.1 At paragraphs 7.9 and 7.12 of her PoE, Ms Jones refers to the Housing Needs Survey prepared in support of the Tiptree Neighbourhood Plan (TNP) ('the TNP HSN 2017') identifying a need for 19 affordable homes in Tiptree, and suggests this need can be met in full through existing commitments at the Barbrook Lane site.
- 5.2 Reliance on the TNP HNS 2017 to determine the affordable housing needs of Tiptree in full is misplaced for a number of reasons, as discussed below.
- 5.3 On page 9 of the TNP HNS 2017, it confirms its findings are based on a survey of households in 2017 for which there was a 28% response rate. The subsequent estimates of need derived from this survey do not appear to seek to extrapolate the data to account for non-responses – the identification of an affordable housing need of 23 homes (19 affordable / social rent, and 4 shared ownership) merely reflects the affordable housing needs of those that completed the survey. Taking a very simplistic approach, and assuming that the 28% that responded are typical of Tiptree's population as a whole, the scaled up affordable housing need would equate to 82 homes in total.
- 5.4 Furthermore, the TNS HNS 2017 survey is now somewhat dated. As discussed in my PoE, housing affordability has significantly worsened in recent years in the Borough.
- 5.5 In addition, the TNS HNS 2017 survey results simply represent a snapshot in time – they do not seek to account for future growth, household formation, etc. that may have occurred since the survey, or may occur over the plan period.
- 5.6 Furthermore, in the absence of any evidence to suggest that Tiptree is an exception to the 'ever growing' nature of affordable housing need across the Borough, it can be reasonably inferred that Tiptree's affordable housing need has increased since 2017 and is continuing to do so.
- 5.7 Whilst the TNS HNS 2017 may have been useful for the purposes of the TNP, it does not mean that it is suitable for robust for determining housing needs in all contexts – as confirmed through case law<sup>13</sup>, Neighbourhood Plans are not subject to the same level of scrutiny as Local Plans, such that they might be required to be informed by such an assessment.

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<sup>13</sup> *Woodcock Holdings Ltd. v. Secretary of State for Communities and Local Government* [2015] EWHC 1173 (Admin)

- 5.8 The other source of affordable housing need in Tiptree referred to in Ms Jones' proof is the housing register.
- 5.9 Again, reliance on this would be wholly misplaced. The reasons for this are discussed at paragraphs 5.14 – 5.21 of my PoE, and I do not repeat the points again here.
- 5.10 Whilst evidence to quantify the scale of affordable housing need for Tiptree itself may be limited, there are two key points to note.
- 5.11 Firstly, it is nevertheless clear and obvious that there is an existing need for affordable housing in Tiptree.
- 5.12 Secondly, even if one were to disregard this, the scale of unmet affordable housing need across the Borough as whole is sufficient to conclude that the Appeal proposal's provision of affordable housing attracts very substantial weight in its favour. Such a view is consistent with that taken by the Inspector in the 'Colney Heath' appeal decisions<sup>14</sup>. At paragraph 54 of the appeal decisions, the Inspector concluded the proposed affordable housing attracted very substantial weight in the appeal's favour. In explaining the reason for this in the preceding paragraph, the Inspector sets out the severity of shortfall in affordable housing provision across the two *Districts* to which the appeal relates, and the lack of prospects of this being made up within five years. There is no discussion of affordable housing needs or supply at a more local level.

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<sup>14</sup> Paragraphs 53 and 54, Appeal Decision APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926 Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath

## 6. Summary and Conclusion

- 6.1 The Housing Delivery Test and five-year housing land supply are indicators of whether housing requirements have been met and whether there are reasonable prospects future need will be met, respectively. They are key to determining whether the paragraph 11d) of the NPPF is engaged. However, they only consider housing supply against adopted requirements in a narrow, quantitative way. They do not provide indication of other qualitative matters, such as the tenure of supply compared to need – matters which are relevant to the planning balance. Furthermore, it must be recognised that the need to significantly boost housing supply applies regardless of the five-year housing land supply position.
- 6.2 The OAHNS 2016 did not provide an objectively assessed housing needs figure for Tiptree as a settlement or Parish; and Ms Jones' PoE does not suggest the LPS2 was informed by an objective assessment of housing need at this level. This should not be read as a criticism of the emerging LPS2, but rather underlines the need to avoid treating the number of new homes the LPS2 directs to Tiptree as absolute. The LPS2 does not specify a precise number of new homes to be delivered in Tiptree, but rather expresses the number to be delivered as a minimum. Reference to the number of new homes as a minimum was introduced through Examination of the LPS2 as a main modification, i.e. without expressly referring to this figure as a minimum, the LPS2's approach to Tiptree would be unsound. The emerging LPS2 in no way suggests a ceiling on the number of new homes to be delivered in Tiptree.
- 6.3 The emerging LPS2 does not allocate sites to deliver housing for Tiptree, but instead delegates this role to the TNP. The TNP has failed once already at Examination, and there are concerns that the current approach is repeating mistakes made previously. There is considerable uncertainty over when – or even if – the TNP will be made.
- 6.4 Ms Jones' PoE confirms the extent of affordable housing need in Colchester is significant, and a vast shortfall in provision has built up since 2013.
- 6.5 Nothing within Ms Jones' PoE suggests the Council has a cogent, deliverable strategy for meeting affordable housing needs in full.
- 6.6 It remains very much unclear what the deliverable supply of affordable housing is within Colchester, or whether the Council has an understanding of the affordable supply position. Nevertheless, the scale of unmet affordable housing needs when compared to the total housing land supply is such that it is improbable this will meet affordable housing needs in full without additional sites contributing to supply.

- 6.7 Evidence – in particular up-to-date evidence – to quantify the scale of affordable housing need in Tiptree itself is limited. However, there is evidence of affordable housing need in Tiptree. Furthermore, it is not necessary to establish affordable housing need / supply at a more localised level than the Borough before one can conclude that provision of additional affordable housing is a significant benefit that should be afforded very significant weight.
- 6.8 Nothing with Ms Jones' PoE alters my view that the Appeal's provision of housing – including affordable housing – represents a significant benefit that should attract very substantial weight in the Appeal's favour.