

## DELEGATED REPORT FOR APPLICATION NUMBER 202604

**Site Address: Land at, Brook Meadows Tiptree Colchester CO5 0QF**

### Relevant Policies:

CD 1.1

#### National Policies

- The National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

#### Local Plan 2017-2033 Section 1

- SP1 Presumption in Favour of Sustainable Development
- SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- SP3 Spatial Strategy for North Essex
- SP4 Meeting Housing Needs

#### Core Strategy

In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) are relevant:

- SD1 - Sustainable Development Locations
- SD2 - Delivering Facilities and Infrastructure
- SD3 - Community Facilities
- CE2b - District Centres
- H1 - Housing Delivery
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- UR2 - Built Design and Character
- PR1 - Open Space
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ENV2 - Rural Communities

#### Development Policies

In addition, the following are relevant: Adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

- DP1 Design and Amenity
- DP2 Health Assessments
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP12 Dwelling Standards
- DP14 Historic Environment Assets
- DP15 Retention of Open Space and Indoor Sports Facilities
- DP16 Private Amenity Space and Open Space Provision for New Residential Development
- DP17 Accessibility and Access
- DP18 Transport Infrastructure Proposals
- DP19 Parking Standards

- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

### Site Allocation Policies

Adopted Borough Site Allocations Policies (2010)

SA H1 Housing Allocations

SA TIP1 Residential sites in Tiptree

SA TIP2 Transport in Tiptree

### Neighbourhood Plans

The draft Tiptree Neighbourhood Plan is of relevance, this is at Regulation 14 stage and consultations have been completed.

### Adopted SPD

Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

- The Essex Design Guide
- External Materials in New Developments
- EPOA Vehicle Parking Standards
- Backland and Infill
- Affordable Housing
- Community Facilities
- Open Space, Sport and Recreation
- Sustainable Construction
- Cycling Delivery Strategy
- Urban Place Supplement
- Sustainable Drainage Systems Design Guide
- Street Services Delivery Strategy
- Planning for Broadband 2016
- Managing Archaeology in Development.
- Developing a Landscape for the Future
- Planning Out Crime

### **Local Plan 2017-2033 Section 2 (emerging)**

Policy SG1: Colchester's Spatial Strategy

Policy SG2: Housing Delivery

Policy SG7: Infrastructure Delivery and Impact Mitigation

Policy SG8: Neighbourhood Plans

Policy ENV1: Environment

Policy ENV3: Green Infrastructure

Policy ENV5: Pollution and Contaminated Land

Policy CC1: Climate Change

Policy PP1: Generic Infrastructure and Mitigation Requirements

Policy SS14: Tiptree

Policy OV2: Countryside

Policy DM1: Health and Wellbeing

Policy DM8: Affordable Housing

Policy DM9: Development Density

Policy DM10: Housing Diversity

Policy DM12: Housing Standards

Policy DM15: Design and Amenity

Policy DM17: Retention of Open Space and Recreation Facilities

Policy DM18: Provision of Public Open Space

Policy DM19: Private Amenity Space  
Policy DM20: Promoting Sustainable Transport and Changing Travel Behaviour  
Policy DM21: Sustainable Access to Development  
Policy DM22: Parking  
Policy DM23: Flood Risk and Water Management  
Policy DM24: Sustainable Urban Drainage Systems  
Policy DM25: Renewable Energy, Water, Waste and Recycling

## **Adopted Local Plan and Emerging Local Plan Status**

### **Overview**

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan is very advanced and following Examination Hearings in April 2021 and consultation on Mian Modifications in October / November 2021, the Final Inspector's Report is awaited. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Core Strategy Policy SD2 is fully superseded by Policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by Policies SP1 SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of Policies SD1, H1 and CE1 are relevant for decision making purposes.

The Council can demonstrate a five year housing land supply.

### **Adopted Section 1 Local Plan**

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities' Shared Strategic Section 1 Local Plan is on the council's website [here](#).

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, Policy SD2 of the Core Strategy is fully superseded by Policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of Policies SD1, H1 and CE1 remain valid, as given the strategic nature of Policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by Policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

### **Emerging Section 2 Local Plan**

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;

2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

Section 2 is at an advanced stage having undergone examination hearing sessions in April 2021 and currently undergoing consultation on modifications. Section 2 will be afforded some weight due to its advanced stage. However, as it is yet to undergo full and final examination, the exact level of weight to be afforded will be considered on a site-by-site basis reflecting the considerations set out in paragraph 48 of the NPPF. Proposals will also be considered in relation to the adopted Local Plan and the NPPF as a whole.

### **5 Year Housing Land Supply**

Section 1 of the Emerging Local Plan was adopted by the Council on the 1 February 2021 and therefore carries full weight.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes.

Although the Garden Community is allocated in Section 1, all other site allocations are made within Section 2 of the Plan which is still to be adopted. Within Section 2 the Council has allocated adequate sites to deliver against the requirements set out in the strategic policy within the adopted Section 1. All allocated sites are considered to be deliverable and/or developable.

In addition and in accordance with the NPPF, the Council maintains a sufficient supply of deliverable sites to provide for at least five years' worth of housing, plus an appropriate buffer and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy. The Council has consistently and comfortably delivered against its requirements which has been demonstrated through the Housing Delivery Test. It is therefore appropriate to add a 5% buffer to the 5-year requirement. This results in a 5 year target of 4,830 dwellings ( $5 \times 920 + 5\%$ ).

The Council's latest published Housing Land Supply Annual Position Statement (August 2021) demonstrates a housing supply of 5,597 dwellings which equates to 5.79 years based on an annual target of 920 dwellings (966 dwellings with 5% buffer applied). This relates to the monitoring period covering 2021/2022 through to 2025/2026.

## 8 Five Year Supply Calculation

8.1 The table below illustrates the 5-year supply calculation for the district during the period between 2021/2022 through to 2025/2026.

Housing Need OAHN	
Annualised objectively assessed housing need (OAHN)	920
5 year housing requirement (5x920)	4600
5 year housing requirement and 5% buffer	4830
Supply	
Permissioned sites, existing and selected emerging allocations and windfall allowance	5597
Total number of years' worth of housing supply including emerging allocations	
Supply against SM with permissioned sites, existing allocations, windfall and selected emerging allocations	5.79

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 5.75 years is deliverable within this period.

The LPA's 5YHLS has been tested at appeal and found to be robust, the most recent cases being on Land at Maldon Road, Tiptree (Appeal Ref: APP/A1530/W/20/3248038), Land at Braiswick (Appeal Ref: APP/A1530/W/20/324575) and Land at 102 East Road, West Mersea (APP/A1530/W/21/3285769). The last of these decisions confirmed the Council's ability to demonstrate a 5YHLS in respect of the period commencing 1 April 2021.

In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan the adopted housing requirement is the basis for determining the 5YHLS.

Given all of the above, it is therefore considered that the Council can demonstrate a five year housing land supply.

### Case Officer's Report:

#### Relevant Background

This outline planning application proposal seeks permission in principle for the following development at Brook Meadows, Tiptree.

The proposal includes the following:

- The provision of up to 221 new homes;
- Policy compliant provision of 30% affordable housing;

Other features of the proposed development are as follows:

- Job creation from construction period
- Expenditure from new residents in local economy
- New Homes Bonus payment
- Council Tax payments

Prior to the submission of this application, a preliminary enquiry was submitted to the Council seeking an officer opinion of the likely response to a formal planning application for residential development on the site, this included a meeting with the case officer. The officer response indicated that permission was likely to be refused.

#### Site Description

The application site is located within the countryside of Tiptree. The site area, which is irregular in shape extends to approximately 11.67 hectares and is located in south west Tiptree. The site forms part of a Local Wildlife Site (Co10 Inworth Grange Pits).

The application site is currently primarily used as agricultural land. A number of mature trees and hedgerows are found along the site's boundaries. Within the site are a number of visible orchids.

#### Consultation Responses

Contaminated Land Officer – No objections to the submitted contamination report, subject to recommended conditions

Ecological Advisor (Place Services) - No ecological objection subject to;

- a) overcoming the policy constraints for development affecting a LoWS
- b) the adoption of the updated shadow Habitats Regulations Assessment screening report
- c) securing ecological mitigation, sufficient compensation for loss of part of a designated site (LoWS) and biodiversity enhancements

Essex Wildlife Trust – raises an objection to the scheme

Highway Authority – no objections subject to recommended conditions

Landscape Advisor – The application cannot be supported on landscape grounds. (Officer comment: See body of main report)

Anglian Water – No objections, informatives recommended

SuDs – no objections subject to recommended conditions

Archaeological Advisor – no objection subject to recommended condition

Planning Policy – objects to the proposal (Officer comment: See main body of the report)

RSPB – objects to the proposal

Urban Designer - Matters relating to access need to be overcome and likely require an enhanced level of detail to be included as part of any future proposal put forward for consideration.

Should the Officer be minded to approve the application in the absence of a further consultation, please ensure that the plans illustrating the indicative/concept layout are not included as approved documents on the decision notice.

Environmental Protection – no objections subject to recommended conditions

Arboricultural Officer – “annotated plan sent to LMO” (Officer comment: Officer has discussed the proposal with the Arb. Officer who confirms they are in agreement with the Arb report. 10% canopy cover needs to be addressed).

Other representations:

As a result of local notification a total of 820 representations have been received (at the time of writing), including representations from the Rt Hon Priti Patel (MP), Tiptree Neighbourhood Plan

Steering Group and representations from outside the Borough. One letter of support has been received. The general grounds of objection may be summarised as follows:

- Site is outside of settlement boundary
- Tiptree does not need more housing
- Harm to amenity
- Harm to landscape
- Harm to highway safety
- Insufficient infrastructure
- Harm to ecology and protected species includes a species of orchid
- Loss locally important open space
- Loss of village lifestyle
- Loss of local wildlife site

#### Parish Council Comments

Tiptree Parish Council objects to this planning application for the following reasons:

- a) The application is outside the current settlement boundary.
- b) It pre-empted the Neighbourhood Plan and is therefore unfair to other applicants.
- c) There is only one point of access onto Maldon Road and road safety reports highlight the potential for accidents.
- d) The site has 25% chance of flooding.
- e) Designated wildlife site providing rare habitat and species.
- f) Highly valued greenspace utilised on a daily basis by many residents.
- g) The development will place further stress on existing infrastructure.

Additional comments:

The recently submitted ecology reports by Aspect Ecology indicate acceptance that there will be disruption to the wildlife and flora currently present on the site. Alternative remedies regarding movement of the wildlife prior to commencement of development are suggested although suggestions for preserving the flora are not provided.

Aspect Ecology is employed by the applicant, therefore such reports cannot be accepted as totally unbiased. Unbiased reports submitted by Essex Wildlife Trust are at odds with the Aspect Ecology report and state that the development would cause 'unacceptable loss'. Such loss is supported by the enormous number of objections received in opposition to this application.

Following receipt of the additional Aspect Ecology reports and the report from Essex Wildlife Trust, Tiptree Parish Council continues to object to this application as per the above reasons in addition to the prior objections submitted on 14 December 2020 and 10 February 2021. As identified in the Tiptree Neighbourhood Plan, there are alternative sites in order to avoid development on a Local Wildlife Site.

#### Material Planning Considerations

##### The proposal:

Outline application for the erection of up to 221 dwellings and associated infrastructure and works (all matters except access are reserved).

##### The principle:

#### **Introduction**

The proposal for up to 221 dwellings at Land at Brook Meadows, Tiptree is not an allocation in either the Adopted or Emerging Local Plan. The site is located outside of the settlement boundary of both

the Adopted and Emerging Local Plan. Although the site is within a broad direction of growth as shown within the Emerging Local Plan as submitted, modifications have been proposed in relation to these broad areas of growth which show the site as excluded from any of them. In addition modifications amend the policy wording referring to these areas as preferred areas of growth for the purposes of the Neighbourhood Plan.

A Neighbourhood Plan is being prepared for Tiptree. The Examiner's Report dated October 2020, outlined that the previous iteration of the Tiptree Neighbourhood Plan is not in conformity with the Basic Conditions. As such, the Tiptree Neighbourhood Plan has returned to the Regulation 14 stage, with consultation on the revised draft ending on 2<sup>nd</sup> May 2022.

### **Adopted Local Plan and Section 1 Local Plan**

On 1st February 2021, Full Council resolved to adopt the modified Section 1 Local Plan in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004. The final version of the Adopted North Essex Authorities' Shared Strategic Section 1 Local Plan is on the council's website [here](#).

The shared Section 1 of the Colchester Local Plan covers strategic matters with cross-boundary impacts in North Essex. This includes a strategic vision and policy for Colchester. Section 2 of each plan contains policies and allocations addressing authority-specific issues.

Appendix A of the Section 1 Local Plan outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Having regard to the strategic nature of the Section 1 Local Plan, Policy SD2 of the Core Strategy is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 of the Core Strategy are affected in part. The hierarchy elements of Policies SD1, H1 and CE1 remain valid, as given the strategic nature of Policies SP3, SP4 and SP5 the only part of the policies that are superseded is in relation to the overall requirement figures.

The final section of Policy SD1 which outlines the presumption in favour of sustainable development is superseded by Policy SP1 of the Section 1 Local Plan as this provides the current stance as per national policy.

All other Policies in the Core Strategy, Site Allocations and Development Management Policies and all other adopted policy which comprises the Development Plan remain relevant for decision making purposes.

The NPPF continues to support the policy approach in the Adopted Local Plan in principle, in respect of the key policies on settlement hierarchy relevant to this proposal, Policies SD1 and ENV1. Policy SD1 accords with Paragraphs 10-12 of the 2021 NPPF which provide for a presumption in favour of sustainable development. It provides the spatial strategy and framework for planned growth throughout the Borough. Policy H1 follows on from SD1 and indicates where development will be delivered providing the context for the Site Allocations DPD and defined settlement boundaries to accommodate planned growth. The proposal is not allocated as a site for development in the Site Allocations nor is it within the defined settlement boundary for Tiptree, so is therefore in conflict with both Policies SD1 and H1.

Policy SD1 is consistent with the NPPF's approach to decision-taking which entails approving proposals that accord with the Local Plan unless material considerations indicate otherwise, and which involves the LPA working proactively with applicants. It is noted, however, that the housing and jobs target provided in the policy have been superseded by the Strategic Section 1 Local Plan. Whilst the supply figure itself referenced in Policies SD1 and H1 may be superseded the principle of the overarching spatial strategy and the settlement hierarchy are not and as such significant weight should still be afforded to them.

Policy ENV1 sets out the policy context for proposals on unallocated greenfield land outside of defined settlement boundaries, which applies directly to the application site. The requirements of Policy ENV1 for the conservation and enhancement of Colchester's natural and historic environment



is in accordance with NPPF paragraph 174 which clearly recognises the intrinsic character and beauty of the countryside and demonstrates that planning policies should contribute to and enhance the natural local environment via protection, maintenance, and preventing unacceptable risk. Following a number of recent appeal decisions, it is acknowledged that Policy ENV1 takes a more stringent approach, in part, than is envisaged by the NPPF. However, these decisions have also confirmed that the principle of the approach to unallocated land outside settlement boundaries and the criteria approach which seeks to assess the impacts of proposals on the intrinsic character of the countryside remains up to date. It is this element of the policy that the proposed development is in conflict with.

Based on the protection afforded to land outside settlement boundaries and outside of the most sustainable locations in Policies SD1 and ENV1, the proposal is not considered to be compliant with these policies. Other policies are relevant to the proposal including those relating to design and layout, but no comment is made in respect of most of these in this response as it is focusing on the key policy principles.

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

As indicated in the May 2021 policy response Section 1 of the Local Plan was adopted by the Council on the 1 February 2021 and therefore carries full weight.

Section 1 includes strategic policies covering housing and employment, as well as infrastructure, place shaping and the allocation of a Garden Community. Policy SP4 sets out the annual housing requirement, which for Colchester is 920 units. This equates to a minimum housing requirement across the plan period to 2033 of 18,400 new homes. In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan is the basis of the housing requirement for determining the 5YHLS.

The Council's latest published Annual Housing Position Statement (August 2021) is therefore based on the Section 1 Local Plan. The APS (2021) indicates a supply of 5597 with a requirement including a 5% buffer of 4830 demonstrating that the Council has a sufficient supply of deliverable housing to meet the 5-year requirement. A total of 5.75 years is deliverable within this period.

### **Section 2 Colchester Emerging Local Plan (CLP)**

Since the Policy Response in respect of this application in May 2021, significant progress has been made on the Section 2 CLP. A number of factors are relevant to the consideration of this application and are explained further below;

The Local Plan Examination Hearing sessions took place in April 2021, following this the Inspector recommended a number of Modifications to the Plan which were the subject of Consultation in October/November 2021. The Final Inspectors Report is awaited. The May 2021 policy response referred to issues addressed in the Examination Topic Paper 6 which identified many of the matters which were later confirmed as Main Modifications. For clarity the Modifications relevant to this application are listed below; ([Link to Modifications](#)) ([Link to Policy Maps](#))

- Amendments to Table SG1 confirming the Housing provision numbers in the light of updates to reflect Commitments since the Plan was submitted in October 2017. In the case of Tiptree, the Barbrook Lane site which will deliver 200 dwellings is counted as a commitment reducing the number required to be allocated through the NHP to 400
- Revisions to Policy SS14 and supporting text MM69, MM70 and MM71. The amended Policy as recommended through the Modifications now reads as follows;

*Policy SS14 (As proposed through Modifications)*

*Within the preferred directions of growth shown on the Tiptree policies map, to the south west and north/north west, subject to existing constraints, the Tiptree Neighbourhood Plan will:*

- (i) Define the extent of a new settlement boundary for Tiptree;*
- (ii) Allocate specific sites for housing allocations to deliver a minimum 400 dwellings;*
- (iii) Set out any associated policies needed to support this housing delivery i.e. housing mix, type of housing and density for each site allocated for housing;*
- (iv) Set out the policy framework within the parish to guide the delivery of any infrastructure/community facilities required to support the development in accordance with the requirements of Policies SG7 and PP1. This will include a detailed transport assessment with a view to confirming provision of the first phases of a road between the B1022 and B1023;*
- (v) Consider cross boundary issues*
- (vi) Identify other allocations in the Parish, including employment and open space.*

*Proposals for development outside of the settlement boundary or settlement boundary defined by the Tiptree Neighbourhood Plan once adopted will not be supported. This policy should be read in conjunction with the generic Neighbourhood Planning policy SG8, policy SG3 and policies in the Tiptree Neighbourhood Plan once it has been adopted.*

*Before granting planning consent, wintering bird surveys will be undertaken at the appropriate time of year to identify any offsite functional habitat. In the unlikely event that significant numbers are identified, development must firstly avoid impacts. Where this is not possible, development must be phased to deliver habitat creation and management either on or off-site to mitigate any significant impacts. Any such habitat must be provided and fully functional before any development takes place which would affect significant numbers of SPA birds.*

- Revisions to the Policies Map which removed the direction of Growth arrow in the area of the Brook Meadow in the light of updated evidence related to the Local Wildlife Site designation to the west.

This reflects the fact that the Policies Map SS14 in the Submitted ELP contains a mapping error, as this does not reflect the latest Local Wildlife Site (LWS) areas. For Tiptree, this includes amended boundaries for two LWS and the addition of a new LWS designation. As a consequence, it was agreed that the direction of growth arrow in this area should be removed.

- Modification to Policy OV2

*Residential development proposals in the countryside, outside defined settlement boundaries, will need to demonstrate that the scheme respects the character and appearance of landscapes and the built environment and preserves or enhances the historic environment and biodiversity. Small scale rural exception sites needed to meet local affordable housing needs will be considered favourably on appropriate sites provided a local need is demonstrated by the Parish Council on behalf of their residents, based on evidence gained from an approved local housing needs survey. Where there is an identified need for certain types of housing, schemes must demonstrate how these needs have been met.*

*Proposals in close proximity to a habitats site must demonstrate through HRA screening that the scheme will not lead to likely significant effects to the integrity of the habitats site. Where this cannot be ruled out a full appropriate assessment will be required to be undertaken.*

This provides clarity around the tests for residential development in the countryside which is the case in respect of the site at Brook Meadow. The policy now clearly requires residential development in the countryside to “demonstrate that the scheme respects the character and appearance of landscapes and the built environment and preserves or enhances the historic environment and biodiversity”. If the LPA are not satisfied that a scheme/proposal does this, it is contrary to this policy.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan;
- The extent to which there are unresolved objections to relevant policies in the emerging plan; and
- The degree of consistency of relevant policies to the policies in the Framework.

Given the advanced stage of the Section 2 Plan and the fact it has been through an Examination many of the Policies can be afforded significant weight. The degree of weight is influenced by the extent to which there are unresolved objections - which at this time relate only to the objections to the Main Modifications which were consulted on in October/November 2021.

In respect of the Modifications referred to above, limited representations were received

- A total of 7 representations were received to the Modifications to Policy SS14 and the supporting text which primarily relate to the wording linked to the infrastructure associated with the allocations, or to the Local Plan itself not allocating sites. These issues were considered by the Inspector at the Examination, so are unlikely to be further amended.
- In respect of the changes to the arrows on the Policies Maps, only one representation from the Parish Council was received and this refers to a desire for a further change to the map which does not have any impact in respect of this site and was considered as part of the Examination.
- Policy OV2 received 2 representations, one of which is support and the other relates to exceptions sites.

In light of these representations considerable weight can be afforded to these policies since the scope and nature of these representations are not substantive in so far as they relate to this application, in accordance with paragraph 48 of the NPPF.

### **Tiptree Neighbourhood Plan**

The revised Draft Tiptree Neighbourhood Plan was published for Regulation 14 consultation on the 11th March and will conclude on Sunday 1st May 2022 (see [Tiptree Parish Council website](#) for more information). The spatial strategy of the Draft Tiptree Neighbourhood Plan now takes into account the 200 dwellings granted on appeal at Barbrook Lane. As a result, the Plan is now making allocations for a minimum 400 dwellings (in accordance with Emerging Local Plan Policy SS14 as proposed to be modified). The Draft Tiptree Neighbourhood Plan presents a strategy in accordance with the Emerging Section 2 Local Plan, however that strategy remains to be subject to consultation and examination. In terms of weighting, it is not considered any weight can be afforded to the draft Tiptree Neighbourhood Plan at its current Regulation 14 stage. It is however relevant to note that the Plan makes allocations for the provision of 400 dwellings and does not include the site at Brook Meadow, consistent with the earlier iteration of the NHP.

### **Policy conclusions**

It remains the case that the proposal does not accord with the Adopted Local Plan being contrary to Policies SD1 and ENV1 and Section 1 Local Plan Policy SP3 restricting development outside development boundaries. The site is located outside of the settlement boundary for the Adopted

Local Plan. Furthermore, the Council continues to be able to demonstrate a 5-year housing land supply. It is the Council's view therefore that paragraph 11(d) is not engaged. Section 2 CLP Policies SG1 (Colchester's Spatial Strategy and SG2 (Housing Delivery) take forward the Spatial Strategy from Strategic Section One Policy SP3 and the distribution of housing provision as set in Policy SP4 in accordance with the Spatial Hierarchy are also relevant since they provide the framework for the plan led growth which in the case of Tiptree is to be allocated through the NHP.

The site no longer accords with the broad direction of growth arrows in the emerging Section 2 CLP as proposed to be Modified. Although representations were received to the Main Modifications Consultation the matter was considered at the Examination resulting in the proposed Modification, none of these are considered to raise substantial matters which have not been considered as part of the Examination. Significant weight can be afforded to the relevant emerging Policies- SS14 and OV2. The correction to the Policies map in respect of the Local Wildlife Site is also highly relevant to the consideration of this proposal. Notwithstanding the Ecological Report advising in respect of mitigation, as a matter of principle the Plan making process through the NHP is making adequate provision for Housing in Tiptree, therefore there is no need for a site to be developed which impacts directly on a designated site. Policies ENV1, OV2 and SS14 of the emerging Section 2 CLP are therefore conflicted by this proposal.

Specialist Officers have advised in respect of the degree of harm caused by this proposal with concerns expressed regarding harm to the landscape, which is unacceptable, particularly as it is unnecessary in order to meet the required housing provision in Tiptree and the rest of the Borough. The environmental harm cited also supports a conflict with Policy SP1 in the Adopted Section One CLP (Presumption in Favour of Sustainable Development)

*When considering development proposals the Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work pro-actively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Development that complies with the Plan will be approved without delay, unless material considerations indicate otherwise.*

This proposal cannot meet the definition of sustainable development since it causes environmental harm. Furthermore, it is not in accordance with the Plan for the reasons indicated so does not accord with adopted Policy SP1.

It remains the case that there is no support from Planning Policy for this proposal in principle as it does not accord with the Adopted Local Plan. Furthermore, it is also continues to be contrary to the very well advanced, soon to be Adopted emerging Local Plan specifically Policies SG1, ENV1, SS14 and OV2 in respect of principle. There may be other policy conflicts which are relevant related to detailed considerations.

Although at the present the Tiptree Neighbourhood Plan cannot be given any weight, it is relevant to acknowledge the intentions to progress the NP and that the proposal is not supported by the emerging NP - whilst acknowledging that weight cannot be afforded to it currently.

### Landscape Impact

As set out in the detailed response from the Landscape Planner the site lies outside the settlement boundary and is unallocated, it is therefore subject to Core Policy ENV1.

The requirements of policy ENV1 is largely in accordance with paragraph 170 of the NPPF and therefore weight can be given to this policy. ENV1 requires that 'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be ... controlled to conserve the environmental assets and open character of the Borough'. The issue of open character is important as it confirms the importance of the unbuilt

countryside as a resource in its own right, irrespective of quality or value. The policy also requires that, 'where new development needs or is compatible with, a rural location, it should demonstrably ... be appropriate in terms of its scale, siting, and design ...', detailed Landscape Advisor comments are provided below:

- 1.1 Regarding the landscape content/aspect of the outline application proposals submitted principally under the DAS lodged on 26/11/2020, the revised Landscape & Visual Impact Appraisal (LVIA) doc 7024.LVIA.005.VF and drawings 7024/ASP4/LSP.D & 7024/ASP5/GIP, all lodged 17/09/2021; the following points should be considered:
- 1.2 In support and addition to the policy/policies and guidance detailed in 3.1 below, the following point(s) should be taken into consideration. This to avoid potential harm to the existing and future character/amenity of the site and its environs that might occur through agreement of the currently proposed scheme, as it is considered it would not adequately conserve/enhance/restore the landscape of the site for the betterment of its wider setting:
- 1.3 The proposed development site lies outside the settlement boundary and is therefore subject to Core Policy ENV1. ENV1 requires that *'unallocated green-field land outside of settlement boundaries (to be defined/reviewed in the Site Allocations DPD) will be protected and where possible enhanced, in accordance with the Landscape Character Assessment. Within such areas development will be strictly controlled to conserve the environmental assets and open character of the Borough'*. The issue of open character is important as it confirms the importance of the unbuilt countryside as a resource in its own right; irrespective of quality or value. The policy also requires that, *'where new development needs or is compatible with, a rural location, it should demonstrably ... be appropriate in terms of its scale, siting, and design ...'*.
- 1.4 The site lies within Colchester Borough Landscape Character Assessment Area F2 (CBLCA F2), Tiptree Wooded Farmland, this describes the character of the landscape in detail and identifies characteristic(s) of the Area shared by the site as *'Located at the eastern end of a broad, ridge that extends west into Braintree District', 'Character area influenced by nucleated Tiptree settlement within the centre of the area', 'Mosaic of small to medium-sized, predominantly arable fields, with a predominantly small-scale field pattern' and 'Linear settlement pattern'*, and specifically identifies the adjacent Tiptree Lakes SINC as a distinct ecological feature that goes to make up the landscape character of the Area. It goes on to identify planning issue(s) as *'Potential for visually intrusive expansion to the settlement edges of Tiptree and Tiptree Heath'*, sets landscape strategy objective(s) to *'conserve and enhance'* the landscape character of the Area. Finally, it gives landscape planning guideline(s) to *'Conserve and enhance the landscape setting of Tiptree and Tiptree Heath settlements'*.
- 1.5 The site description given within the Baseline Assessment under part 2 of the LVIA would appear for the most part acceptable. The site forms part of the characteristic mosaic of small to medium sized fields to CBLCA F2 as noted in 1.4 above, i.e., fields within CBLCA F2 are specifically defined as either small or medium sized, unless noticeably much larger than other fields within the Area. In this case when assessing the site and the field to the NW of it referenced in the LVIA against those around them, it can be seen here





(Map data ©2021 Google) (site outlined red, NW field in orange and CBLCA F2 in blue) that they are both not noticeably larger, nor are they particularly smaller than other fields in CBLCA F2, ergo they are both medium size fields characteristic of CBLCA F2, which, contrary to the claim in clause 2.46 of the LVIA, is characterised by a mosaic of small to medium sized fields. The proposed development would involve the loss of a characteristic part of CBLCA F2 through the loss of this medium sized field, as well as being visually intrusive development to the settlement edges of Tiptree for users of the PRoW network, highlighted as a key planning issue under CBLCA F2, and would therefore be contrary to Core Policy ENV1. Given the harm caused to CBLCA F2 through this fundamental loss of landscape character and the visual intrusion the development would have on the landscape, the findings of the LVIA, which support the development, cannot be supported.

The Senior Environmental Planning Officer has also been consulted, their comments are as follows:

- Landscape Strategy Plan May 2020 21/06/21 update: the spine road is now tree lined and play enhanced but otherwise there appears just to be greater detail about the landscape proposals rather than the overall master plan changing
- Net Gain - allowing the gain to go offsite would not be acceptable in place-making terms as it destroys part of the natural character of the site, whilst not providing enough enhancements on the site itself to allow a balance of recreation and high-quality habitat . I suggest it is indicative of the over development of the site in terms of the spatial footprint of the built elements and provides poor landscape design as a result.
- In addition, there appears to be credible evidence from the parish council and EWT that this site holds a community of rare orchids which, I understand, is found nowhere else in the UK. So on the basis of the orchids the existing character of the site should be enhanced and protected. A development of this size will provide significant pressure from both humans and pets on any habitat being retained.
- The viewpoint photos are taken at midsummer so screening from existing vegetation appears at its fullest. Visual screening does not account for noise and light disturbance to users of the PROW network.
- VP 7 and 11 remain VPs where significant negative effects will result. Poss also from VP 8.
- The wireframe selection is from VPs some distance from the site where there was never going to be significant effects. Significant effects occur on the site itself and VPs close to the site from the PRoW network. No wireframes have been provided from access within the LoWS. Even so, VP 9 wireframe demonstrates how the scheme will have an urbanising effect on the skyline.

On the basis on the above, given the harm caused to the Adopted Landscape Character Assessment through this fundamental loss of landscape character and the visual intrusion the development would have on the landscape, the proposal would fail to comply with the requirements of the Colchester

Borough Landscape Character Assessment. The scheme is therefore held to be materially harmful in landscape terms and contrary to relevant local plan Policies.

### Design and Appearance

Core Strategy policy ENV1 seeks to conserve and enhance Colchester's natural and historic environment. Core Strategy policy UR2 seeks to promote and secure high quality design. Development Policies DP1 and DP12 set out design criteria that new development must meet. These require new development to be of a high quality and respect the character of the site and its context.

As noted above, the application is submitted in outline form with scale, layout, appearance and landscaping reserved for detailed consideration in later application(s).

Specific detail on appearance and architectural detailing is not required as a part of this application and this will be agreed through the reserved matters application(s). Given this, there is no reason to assume that the proposed dwellings will be of poor design. It is noted that a number of representations raised concerns in terms of impact upon existing development, including loss of light and overshadowing from the proposed development. These concerns are noted however any perceived weaknesses of the submitted application could be addressed at the reserved matters stage.

### Residential Amenity

Development Policy DP1 states that all development must be designed to a high standard and avoid unacceptable impacts on amenity. This includes protecting existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, pollution (including light and odour pollution), daylight and sunlight. The adopted Supplementary Planning Document (SPD) the Essex Design Guide also provides guidance on the safeguarding of residential private amenity.

The layout is purely indicative at this stage but it does appear to be possible to design a scheme that is not materially harmful to neighbouring amenity at reserved matters stage. The comments received from the neighbours regarding this matter have been carefully considered but due to the purely indicative drawing that only has suggested development areas, there is nothing to suggest that the scheme would not be able to comply with the Council's adopted standards on such matters.

### Trees

Core Strategy policy ENV1 states that the Borough Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline, and this is also echoed within sections of the NPPF. Development Policy DP1 provides that all development must demonstrate environmental sustainability and respect its landscape setting and contribute to the surrounding area.

In this instance, the application was accompanied by an Arboricultural Impact Assessment (AIA). This confirms the proposed development is limited to the removal of young and semi mature scrub only from within the site interior. The scheme has been designed to retain all the boundary tree cover, including all moderate quality components. A preliminary tree protection drawing has been provided to demonstrate the deliverability of safeguarding measures for retained trees and to highlight which trees are recommended for removal.

Emerging Policy CC1: Climate Change requires a Canopy Cover Assessment for all major applications. Development proposals should seek where appropriate to increase the level of canopy cover on site by a minimum of 10%. In circumstances, where this is not possible or desirable, compensatory provision should be identified and secured through a legal obligation. While a canopy cover assessment has not been submitted for formal determination at this stage, the indicative landscaping scheme proposes additional tree planting, and additional woodland tree planting. It is considered that an assessment can be submitted at landscaping reserved matter(s) stage, and the 10% requirement can be conditioned or secured by legal agreement in this instance.

## Parking and Highway Safety

Core Strategy policy TA1 seeks to improve accessibility and change travel behaviour and encourages development within highly accessible locations to reduce the need to travel. Core Strategy Policy TA2 promotes walking and cycling as an integral part of sustainable means of transport. Policy TA4 seeks to manage the demand for car use. Development Policy DP17 states that all developments should seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrians, cycling and public transport access. Relevant paragraphs of the NPPF provide guidance on transportation matters, including that application should only be refused on highway grounds if the impact (on safety or capacity) is severe.

It is noted that many of the objections that have been received in relation to the proposed development have identified the perceived inadequacy of the local highway network and the problems experienced by motorists at present. The concern is that the proposed development would exacerbate current problems and also create highway safety issues. These views are fully acknowledged and appreciated.

Notwithstanding these concerns the Highway Authority has advised in its consultation response (available to view on file) that the existing highway infrastructure provision would be sufficient to cater for both the existing traffic and that likely to be generated by the development. The Authority's recommendation includes a condition that would inter alia require localised improvements on Brook Meadows – including provision of improving bus stops. It is noted that the application submission includes a Traffic Assessment document that has formed part of the consideration of the application by the Highway Authority.

Policy TA5 of the Core Strategy refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009). This policy requires that a minimum of two parking spaces should be provided for each dwelling of two or more bedrooms.

At present, an illustrative plan detailing the parking has not been submitted. However, there is no reason to assume that the proposal will not accord with the aforementioned policy and SPD in a reserved matter(s) application.

## Flood risk

Core Strategy policy ENV1 seeks to direct development away from areas of flood risk (both fluvial and coastal), towards sites with the lowest risk from flooding. Development Policy DP20 seeks to promote flood mitigation and defence measures as well as the use of appropriate sustainable drainage. The NPPF requires a detailed flood risk assessment (FRA) to be produced for all development located within a flood zone and/or sites that are greater than 1 hectare.

The site for this proposal is located within flood zone 1 as defined on the Environment Agency's mapping system. Therefore the development proposed would not be located in an area of acknowledged flood risk. As regards drainage, again the SUDS team at Essex County Council has advised that it has no objection to the proposal subject to the imposition of the suite of conditions identified in their consultation report and available online to view. In light of this, concerns are not raised in this regard.

## Contamination

Development Policy DP1 requires all development to avoid unacceptable environmental impacts. The application has been supported by a Phase 1 Contamination Report.



The Contamination Officer has confirmed that this an acceptable report for Environmental Protection's purposes. It is noted that A Phase II ground investigation is recommended to determine more accurately the effect of the identified hazards on the development. Based on the information provided, this conclusion would appear reasonable and as such no objections are raised in this regard. As such, the proposal is considered to comply with the aforementioned policy.

### Wildlife and Ecology

Core Strategy policy ENV1 and Development Policy DP21 seek to conserve or enhance biodiversity of the Borough. The NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.

The application has been supported by an Ecology Report, BNG assessment, ecological enhancements plan, botanical assessment of grassland habitats and a shadow assessment.

In terms of the BNG, the Defra metric has been revised (see submitted information) to show that 9.25ha of offsite land would be required to achieve a 10% net gain and the Environment Bank has confirmed that sufficient land is available within Colchester Borough to provide a suitable offset. Place Services (ECC acting on behalf of CBC) has confirmed that there is no objection to the latest BNG metric or providing 9.25 ha offsite in the Borough.

The submitted ecology report confirms the site offers opportunities for protected species including bats, dormouse, badger, great crested newt, reptiles, barn owl and nesting birds, with survey work undertaken at the site confirming the presence of bats, reptiles, barn owl and nesting birds. Appropriate mitigation measures, centred on the careful timing of works, will therefore be implemented to safeguard such species / species groups during site clearance. Long-term opportunities will be maintained, under the proposals through new landscape planting and provision of nest / roost boxes. Place Services have reviewed the ecology report and do not raise any concerns with the scheme, subject to their recommended suite of conditions.

A number of respondents have raised concerns in relation to harm to wildlife, including protected species and impact upon the local wildlife site. A number of mitigations and enhancements are recommended to be incorporated, as encouraged by the NPPF. For these reasons, it is considered that the proposed redevelopment of this site would not have a significantly adverse effect on protected species and that any impact could be suitably moderated through ecological enhancement and mitigation measures secured via condition. The proposed off-site BNG will need to be secured by an appropriate legal agreement. It is worth noting ecology (including BNG) has been carefully considered by Place Services (acting on behalf of CBC), their Principal Ecologist has concluded the development has been:

*"properly assessed in terms of likely impacts and the mitigation hierarchy followed to minimise impacts using proportionate mitigation measures including the restoration of habitats which could support the recovery of protected and Priority species. The bespoke compensation proposal offered is consider sufficient & adequate and could be secured by a planning obligation or legal agreement attached to any consent. We therefore consider that this meets the ecological requirements of the NPPF (2021) and Government's Biodiversity Metric and, with biodiversity enhancements also secured, can deliver net gain for the development."*

Natural England, the statutory consultee on wildlife issues, have been consulted on the application and have provided a number of comments (available online to view).

Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is required for land use plans and for planning applications, which are likely to have significant effects on a Habitat Site.

Habitat Sites are protected at the highest level and are of international importance. They are designated through the EU Birds Directive and EU Habitats Directive, and these Directives are transposed into UK law. In Colchester there are the following; the Colne Estuary Special Protection

Area (SPA), the Blackwater Estuary Special Protection Area (SPA), Abberton Reservoir Estuary Special Protection Area (SPA) and the Essex Estuaries Special Area of Conservation (SAC). The three SPAs are also Ramsar sites, which are wetlands of international importance. The Essex Estuaries SAC includes the Colne and Blackwater estuaries. Due to the close proximity of the River Stour, the southern shore of the Stour and Orwell Estuaries Special Protection Area (SPA) is also likely to be affected by development in Colchester.

Population growth in Essex is likely to significantly affect Habitat Sites through increased recreational disturbance in-combination with other Local Plans. Consequently, in partnership with Natural England, the government's advisor on the natural environment, and other LPAs in Essex, Colchester Borough Council is preparing a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast. The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £137.71, which applies to all new residential development within the Zone of Influence (ZoI). The whole of Colchester Borough is within the ZoI. All new residential proposals within the borough should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations.

Proposals for 100 dwellings or more will also require a shadow appropriate assessment to be submitted with the application, which assesses likely significant effects alone. This should clearly show how necessary avoidance measures are incorporated into the proposal. Payment of the RAMS tariff will address in-combination effects.

The alternative to paying the tariff is for applicants to submit a shadow appropriate assessment report, which includes details of bespoke avoidance and mitigation measures. This shadow appropriate assessment report must be prepared by a reasonably qualified person in support of the application and Natural England will need to be consulted. In this instance, payment of the RAMS tariff has not been secured. As such, appropriate mitigation and compliance with the Conservation of Habitat and Species Regulations 2017 have not been achieved or secured, and the proposal is therefore currently contrary to this legislation.

In light of the above, it is concluded an appropriate shadow assessment is required under the Habitats Regulations given the proposal is a 'major' application over 100 dwellings. As such, Paragraph 182 of the NPPF is activated. This states: *"The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site."*

#### S.106 Contributions

This application constitutes a 'major' development proposal and therefore it has been necessary to report it to the Council's Development Team – to determine the level of mitigation necessary to meet the impacts of the development. It was considered that Planning Obligations should be sought via Section 106 of the Town and Country Planning Act 1990. The Development Team agreed that the following Obligations are required:

#### **Housing –**

The scheme is proposed for up to 221 dwellings but there is no detail or mix available at this stage.

The Council would require 30% affordable housing under the emerging policy as this is not a proposed allocation in the current or emerging local plan. This would equate to up to 66 affordable dwellings.

The tenure mix would be expected at no less than 80% for affordable rent and no more than 20% intermediate (shared ownership).

The affordable homes would be required to proportionately reflect the dwelling types of the overall scheme.

We would request that the affordable homes should meet a minimum of Building Regulations 2015 Part M Category 2 which supersedes lifetime homes standard.

5 % of the affordable homes should meet Part M4 Cat 3 2 B. This is to ensure there is a supply of wheelchair accessible and adaptable dwellings for applicants on the housing register (There are currently more than 250 applicants on the housing register who would benefit from a Cat 3 home)

The accessibility requirements are in accordance with Policy DM12

### **Parks & Recreation - £652,566.38 Offsite Projects**

Borough Projects 35% = £288,398.24

£288,398.24 – Leisure World (Tiptree and Colchester)

Ward Projects 65% = £424,168.24

£220,000.00 – Grove Road Lake improvements

£40,000.00 – Tiptree Parish Council Community Centre upgrade of Children's playground

£130,000.00 – Warriors Rest local wildlife site and nature trail improvements to infrastructure and landscaping

### **Community - £597,550.85**

The figure will change depending on the mix of houses. Estimation based on 221 x 3 bed Tiptree Scout Hut: at 108sq meters and sits on a 500sq meter site with dirt/grass parking in need of levelling and re-surfacing.

The building is a second-hand wooden site hut, built on a 2ft brick plinth on a concrete foundation. The exterior walls are finished in plaster render, painted and the interior walls are painted plasterboard, the floor is compressed wood plank and varnished. The roof is simply felt covered. The building has storage space, a small office, two toilets with a sink in each and one fitted out as a disabled toilet. There is a small kitchen with a washing up sink and oven. The main useable activity space is 78sq m. There is no ramp into the building there is significant root damage to the concrete foundations and numerous cracks have developed in the exterior walls which need repairing every couple of months

A structural engineering firm conducted an investigation on the site in 2016 and concluded that the foundation damage could only be solved long term by two solutions –the first was the need for an extra underpinning, but this would not save the building which is nearly 40 years old from further deterioration the second option was to redesign and complete new rebuild.

A complete rebuild is the desired option for both the Scout Group, the Parish Council and CBC.

The new build would also allow the Scout Group and Tiptree Parish Council to work jointly to formulate a plan to extend the community use beyond the Scout groups. The new build would be on land owned by the Parish council. The project is high on the list provided by the Parish Council for potential s106 monies

### **Education –**

As the application is an outline, ECC have calculated on the basis of 221 houses of two bedrooms or more.

- 19.89 EY&C pupils, at a cost of £30,127.00 = £599,226.03. This sum is to be index linked to quarter two, 2020;
- 66.30 primary places, at a cost of £20,508.00 = £1,359,680.40. This sum is to be index-linked to quarter two, 2020;

- 44.20 secondary places, at a cost of £24,929.00 = £1,101,861.80. This sum is to be index-linked to quarter two, 2020;
- Further information is being sought regarding the primary and secondary school transport costs.

**Habitat Regulations Mitigation** – The RAMS identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance in-combination with other plans and projects. The RAMS sets out a tariff of £137.71, which applies to all new residential development within the Zone of Influence (Zoi). The whole of Colchester Borough is within the Zoi. All new residential proposals within the borough should make a contribution towards the measures in the RAMS to avoid and mitigate adverse effects from increased recreational disturbance to ensure that Habitat Sites are not adversely affected and the proposal complies with the Habitat Regulations. Please see HRA screening at Appendix 1

**Archaeology** – Contribution request of £14,270.00 – Contingent on finds for the display promotion and management of archaeological discoveries on site. No finds on site £270.00 for enhancement of the Colchester HER.

Contributions are also requested from NHS, at the time of writing a full breakdown of projects and costings from the NHS was awaited.

### Conclusion and Planning Balance

The application proposal is contrary to statutory development plan policies and the statutory framework requires that applications for planning permission must be determined in accordance with that plan, unless material considerations indicate otherwise. Allied to these matters is the fact that Section 2 of the Local Plan (which is at an advanced stage) does not include this land in the next plan iteration as suitable for residential development or identify it as within any broad area of growth for Tiptree.

The Council is able to demonstrate that there is a supply of suitable land for residential development in excess of the minimum five years requirement identified in the NPPF, and the planning balance therefore falls to be struck on the “flat” and not “tilted” balance described in the Framework.

On the positive side of the planning balance, the social benefit of 221 new homes overall is tempered by the Borough’s history of past delivery and current housing land supply, whereas it is acknowledged that policy-compliant provision of 30% affordable housing is itself a substantial benefit. The value of economic benefits (job creation from construction period, expenditure from new residents, New Homes Bonus payment, Council Tax payments) is tempered by the relative health of the local economy and current housing land supply.

On the negative side, the appeal proposal is seriously harmful in terms of the Borough’s spatial strategy, development outside the settlement boundary and outwith any broad area of growth, protection of the intrinsic character of the countryside, avoidance of landscape harm, and the absence of necessary planning obligations and contributions are concerned. The proposal is in significant breach of adopted and emerging development plan policy in these respects.

The adverse impacts of the proposed development significantly and demonstrably outweigh its benefits, and it does not amount to sustainable development.

In summary, on the basis of the above it is recommended that the application be refused planning permission.

### **Recommendation:**

This application is recommended for refusal subject to the draft reason(s) for refusal, the informatives listed and the positivity statement generated.

## Recommended Decision

**Application Number:** 202604

**Description:** Outline application for the erection of up to 221 dwellings and associated infrastructure and works (ADDITIONAL GROUND CONDITION REPORT RECEIVED)

**Address:** Land at, Brook Meadows, Tiptree, Colchester, CO5 0QF

**Target Determination:** 12/05/2022

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### **Reason(s) for Refusal**

1. Colchester Borough Council's current statutory development plan consists of the Core Strategy (adopted in 2008 and subject to a Focused Review in 2014), Site Allocations DPD (adopted 2010), Development Policies DPD (adopted 2008 and reviewed 2014), and Section 1 of the new Local Plan (adopted 2021). The proposal is for new residential development which does not accord with the development plan's overall spatial strategy and is not allocated through the Site Allocations DPD and is contrary to Colchester Borough Core Strategy Policies SD1 (spatial strategy) and H1 (housing delivery), and Section 1 new Local Plan Policies SP1 (presumption in favour of sustainable development) and SP3 (spatial strategy). The application also proposes development outside the settlement boundary for Tiptree as defined in the Core Strategy contrary to Core Strategy Policy ENV1 (unallocated greenfield sites outside settlement boundaries).
2. The adopted Section 1 Local Plan (2021) and emerging Section 2 Local Plan 2017-2033 are both relevant to the determination of this application. The emerging Section 2 Local Plan is at a very advanced stage, awaiting the Inspector's final report, and therefore considerable weight attaches to Policies SG2 (housing delivery), SS14 (Tiptree) and OV2 (outside villages) insofar as these relate to this application. Neither the adopted nor emerging Local Plan policies lend support to the proposed development. The proposal is, in particular, both outside the settlement boundary as shown on the current Tiptree Insert, and outwith any broad area of growth shown. Approval of a planning application contrary to this policy framework would be harmful of itself and undermine the emerging Local Plan.
3. The application site is located in open countryside outside the settlement of Tiptree and the adopted settlement boundary, and the proposal is contrary to those parts of Core Strategy Policy ENV1 and Development Policy DP1 that seek to protect the intrinsic character of the countryside. Core Strategy Policy ENV1 states, furthermore, that unallocated greenfield sites outside defined settlement boundaries will be protected and where possible enhanced in accordance with the Adopted Landscape Character Assessment that seeks to conserve and enhance the landscape character of the area.

The proposed development would be materially harmful in landscape terms and contrary to Core Strategy Policy ENV1 including by reason of loss of a characteristic medium sized field contrary to the adopted Colchester Borough Landscape Character Assessment (the LCA), being visually intrusive development to the settlement edges of Tiptree including for users of the PRoW network and failing to comply with the requirements of the LCA. It would also be contrary to Local Plan Section 1 Policy SP7, and emerging Section 2 Local Plan Policies ENV1 and OV2, which require that development proposals should conserve and

enhance the Borough's natural environment and countryside and respect the character and appearance of its landscapes.

The proposal would also be contrary to adopted Section 1 (2021) policy SP7 and emerging Section 2 policy ENV1.

4. The application fails to include a legally binding mechanism to secure a range of planning obligations required in association with the proposed development, i.e. (a) 30% affordable housing, and financial contributions towards: (b) Open Space, (c) Parks and Recreation; (d) Community Facilities, (e) Education, (f) Health/The NHS (g) Habitat Regulations mitigation (h) Archaeology. The proposed development is therefore contrary to: the sustainable development principles in the NPPF 2021, in the Adopted Local Plan Section 1 Policy SP2 and SP6, Adopted Core Strategy Policy H4 (Affordable Housing); and adopted Development Policies DP3 (Planning Obligations and the Community Infrastructure Levy). It is also contrary in this context to the following adopted guidance: Supplementary Planning Document Affordable Housing (adopted 15th August 2011); Provision of Community Facilities (adopted 28th September 2009 updated July 2013) Supplementary Planning Document Provision of Open Space, Sport and Recreational Facilities (adopted 24 July 2006) and The Essex Coast RAMS SPD (adopted May 2020). It is contrary, finally, to Supplementary Guidance issued by Essex County Council (Developers' Guide to Infrastructure Contributions (revised 2016).

## Informatives

### Positivity Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

## Appendix 1

### Habitat Regulation Assessment (HRA) Record Colchester Borough Council

Application details	
Case officer	Eleanor Moss
Application reference	202604
Application description	Outline application for the erection of up to 221 dwellings and associated infrastructure and works
Application address	Brook Meadows, Tiptree
HRA Stage 1: screening assessment	
<b>Test 1 – the significance test:</b> Based on the development type and proximity to European designated sites, a judgement should be made as to whether the development constitutes a 'likely significant effect' (LSE) to a European site in terms of increased recreational disturbance <sup>1</sup>	

The whole of Colchester Borough is within the zone of influence (Zol) for the Essex Coast RAMS.

Does the planning application fall within the following development types?

- New dwellings of > 10 dwellings
- Student accommodation of > 10 units
- Residential care homes and residential institutions (excludes nursing homes) of > 10 units
- Residential caravan sites (excludes holiday caravans and campsites) of > 10 units
- Gypsies, travellers and travelling show people plots of > 10 units

If not the proposal can be screened out as it can be concluded that there are no likely significant effects.

If the proposal does fall within one of the above development types it is anticipated that such development is likely to have a significant effect upon the interest features of European sites [Colne Estuary SPA and Ramsar site, Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Stour and Orwell Estuaries SPA and Ramsar site (south shore) and Essex Estuaries SAC] through increased recreational pressure, when considered in-combination with other plans and projects. The proposal is for more than 100 dwellings and therefore a shadow assessment is required. One has been submitted during the determination of this application. Therefore, an appropriate assessment is needed to assess recreational disturbance impacts.

#### **HRA Stage 2: Appropriate Assessment**

**Test 2 – the integrity test:** The applicant must provide sufficient evidence to allow the Appropriate Assessment to be made, which is the stage at which avoidance and/or mitigation measures can be considered

Insufficient information has been provided to enable proper assessment of the proposal in accordance with The Conservation of Habitat and Species Regulations 2017. Without this, there is no certainty that the development would not adversely affect the integrity of Habitats sites. The proposal is therefore considered contrary to Regulation 63 of The Conservation of Habitat and Species Regulations 2017.

A proportionate financial contribution in line with the Essex Coast Rams has not been made and in the absence of evidence to the contrary, the development would constitute a 'Likely Significant Effect' on the integrity of an European protected site, from the development alone, as well as in combination with other projects and plans, by reasons of increased recreational visits to the designated area - taking into account the conservation objectives for the protected sites and the nature and scale of the proposed development.

#### **Summary of the Appropriate Assessment**

While a shadow assessment has been submitted, this confirms mitigation in the form of payment for the Essex Coast RAMS project is considered to provide a sufficient and appropriate degree of mitigation in relation to the development proposed (amongst other things). To date this has not occurred nor is a legal mechanism in place to secure this mitigation.

#### **Local Planning Authority Case Officer comments, signed and dated:**

EM 4.5.22

**Case Officer's Initials and Date:**  
EM 4.5.22

**Authorising Officer's Initials and Date:**  
SJC 9.05.22