

## DELEGATED REPORT FOR APPLICATION NUMBER 190647

**Site Address: Land adjoining, The Gables, Kelvedon Road, Tiptree, CO5 0LU**

It is noted that the report below is drafted to ascertain what the Council's decision on application 190647 would have been had it been able to determine it on the date signed at the bottom of the report. The application will be determined by the Planning Inspectorate as the applicants have made an appeal against non-determination.

### Relevant Policies:

CD 10.12

#### National Policies

- The National Planning Policy Framework 2021 (NPPF)
- The Planning Practice Guidance (PPG)
- The National Design Guide (2019 updated 2021)
- National Model Design Code (Parts 1 & 2) July 2021

#### 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 (in part – see below)
- SD3 - Community Facilities
- CE1 - Centres and Employment Classification and Hierarchy (in part – see below)
- CE3 - Employment Zones
- H1 - Housing Delivery (in part – see below)
- H2 - Housing Density
- H3 - Housing Diversity
- H4 - Affordable Housing
- H5 - Gypsies, Travellers, and Travelling Showpeople
- 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
- ER1 - Energy, Resources, Waste, Water and Recycling

#### 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
- DP5 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- DP12 Dwelling Standards
- 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
- 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 (adopted 2010)

SA TIP1 Residential sites in Tiptree  
SA TIP2 Transport in Tiptree

### Neighbourhood Plans

The proposed Tiptree Neighbourhood Plan carries no weight currently as it is insufficiently advanced.

### 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
- Affordable Housing
- Community Facilities
- Open Space, Sport and Recreation
- Sustainable Construction
- Cycling Delivery Strategy
- Sustainable Drainage Systems Design Guide
- Street Services Delivery Strategy
- Planning for Broadband 2016
- Managing Archaeology in Development.
- Developing a Landscape for the Future
- ECC's Development & Public Rights of Way
- Air Quality Management Guidance Note, Areas & Order

### Colchester Borough Local Plan 2017-2033:

#### Overview

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight as part of the development plan. The Section 2 Emerging Local Plan remains to complete the examination process, with hearing sessions having taken place between 20 and 30 April 2021. 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.

Policies SD1, H1 and CE1 are superseded by Policies SP3, SP4 and SP5 of the Section 1 Local Plan in relation to the overall housing and employment requirement figures. The remaining elements of Policies SD1, H1 and CE1 are not superseded and remain relevant for decision-making purposes. Core Strategy Policy SD2 is fully superseded by Policy SP6 Infrastructure and Connectivity of the Section 1 Local Plan

The Council can demonstrate a five year housing land supply (see further below).

### 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 1 Section 1 Local Plan 2017-2033 – referred to further in this report below - outlines those policies in the Core Strategy Focused Review 2014 which are superseded. Policies SD1, H1 and CE1 of the Core Strategy are partially superseded. 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. Having regard to the strategic nature of Section 1 of the Local Plan. Policy SD2 of the Core Strategy is fully superseded by Policy SP6 of the Section 1 Local Plan

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.

The Emerging Local Plan submitted in October 2017 is at an advanced stage, with Section 1 now adopted and Section 2 progressing to examination hearing sessions in April. Section 1 of the plan is therefore considered to carry full weight.

Section 2 will be afforded weight due to its very advanced stage. 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.

### Appendix 1 – Policies Superseded from the Core Strategy Focused Review 2014 by the Shared Strategic Section 1 Local Plan

#### General Local Plan Status

The Colchester emerging Local Plan (eLP) was submitted to the Planning Inspectorate in October 2017. The Plan is in two parts with Section 1 being a shared Strategic Plan for the North Essex

Authorities (Colchester, Braintree, and Tendring). Following Examination in Public (EiP) the Section 1 Local Plan was found sound and Colchester Borough Council adopted the Section 1 Local Plan on 1 February 2021 in accordance with Section 23(2)(b) of the Planning and Compulsory Purchase Act 2004.

Policy SP2 should be referred to when applying the Habitats Regulations requirements to secure RAMs contributions where appropriate. This does not update the approach that the Council have been implementing but the Policy context has updated status with the adoption of Section 1 which includes a specific policy covering this issue.

A few policies in the Core Strategy (SD1, H1, CE1) are superseded in part by the adopted Section 1 Local Plan, and only SD2 in full only (by SP6). This is outlined below in detail and a summary table for all Section1 Policies.

#### Policy SD2 – Now Fully superseded by SP6 Infrastructure and Connectivity

~~The Borough Council will work with partners to ensure that facilities and infrastructure are provided to support sustainable communities in Colchester. New facilities and infrastructure must be located and designed so that they are accessible and compatible with the character and needs of the local community.~~

~~New development will be required to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. Development will also be expected to contribute, as appropriate, to strategic projects that support sustainable development and the wider community.~~

~~The Council will seek to ensure that new development makes a reasonable contribution to the provision of related facilities and infrastructure. This will either be through a planning obligation (usually contained within a Section 106 agreement) and/or, if applicable, through a Community Infrastructure Levy (CIL) payment, following adoption of a CIL charging schedule.~~

~~A CIL charging schedule would set a specified charge for each square metre of gross internal floorspace, related to the use class of the development. CIL payments will contribute to the provision of infrastructure to support development. Planning obligations and s278 agreements will continue to be used to make individual applications acceptable. The Council will publish a list of infrastructure to be funded through CIL to ensure developers do not pay twice for the same item of infrastructure. The viability of developments will be considered when determining the extent and priority of development contributions.~~

SD2 Is now replaced by SP6. Infrastructure and Connectivity Part One ELP 2017-2033 Policy SD2 is thus no longer relevant as it is wholly superseded.

#### Policy SD1 – In part

~~Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.~~

~~When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.~~

~~Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay unless material considerations indicate otherwise.~~

This wording is replaced by SP1. All other parts of SD1 remain relevant.

Policy H1 – In part

~~The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.~~

Is replaced by SP3 and SP4. All other parts of H1 remain relevant.

Policy CE1- In part

~~The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021~~

Is replaced by SP5. All other parts of CE1 remain relevant.

<b>Section 1 Adopted Policy</b>	<b>Context of Section 1 Policy</b>	<b>Relevant Core Strategy Policy status</b>
<b>Policy SP 1</b> Presumption in Favour of Sustainable Development	Restates national Policy	Replaces SD1 - in part.  Following text of SD1 is replaced by SP1.  <i>Colchester Borough Council will promote sustainable development and regeneration to deliver at least 14,200 jobs between 2001 and 2021 and at least 19,000 homes between 2001 and 2023.</i>  <i>When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that applications can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the area.</i> <i>Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will</i>

		<i>be approved without delay unless material considerations indicate otherwise.</i>
<b>Policy SP 2</b> Recreational disturbance Avoidance and Mitigation Strategy (RAMS)	Statutory requirement under the Habitats Regs- Policy provides a new authorisation for contributions	New policy relevant to confirm approach implementing the Habitats Regulations. Full status for decisions post 1.02.2021
<b>Policy SP 3</b> Spatial Strategy for North Essex	Strategic – relies on Section 2 eLP for Spatial hierarchy and Colchester strategy	High level N/A
<b>Policy SP 4</b> Meeting Housing Needs	Sets the housing supply figure for the Plan period at 920 per year. Section to allocate sites and determine the spatial distribution	Replaces H1 - in part. Following text of H1 replaced by SP4.  <i>The Borough Council will plan, monitor and manage the delivery of at least 19,000 new homes in Colchester Borough between 2001 and 2023.</i>  All other parts of H1 remain relevant
<b>Policy SP 5</b> Employment	Strategic target – relies on Section 2 eLP to allocated sites	Replaces CE1 – in part. Following text from CE1 replaced by SP5.  <i>The Borough Council will encourage economic development and will plan for the delivery of at least 14,200 jobs in Colchester between 2001 and 2021.</i>  All other parts of CE1 remain relevant.
<b>Policy SP 6</b> Infrastructure & Connectivity	Strategic and restates national policy  Section 2 covers matters specifically	High level/Garden Community – Section A  Sections B, C, D and E of policy apply to all allocations and development proposals in the North Essex Authorities area.

		These sections replace SD2.
<b>Policy SP 7</b> Place Shaping Principles	Strategic / restates national policy and eLP Section 2 covers matters specifically	High level N/A
<b>Policy SP 8</b> Development & Delivery of a New Garden Community in North Essex	New- specific to the Garden Community	Garden Community N/A
<b>Policy SP 9</b> Tendring/Colchester Borders Garden Community	New- specific to the Garden Community	Garden Community N/A

Note- 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.

### **Case Officer's Report:**

#### Relevant Background

There is no planning history specifically relevant to this scheme.

Permission was granted for use of part the land for parking vehicles / trucks and storage of mowers in 1992 (ref: COL/92/0310) and this permission was renewed in 1997 (ref: COL/97/1580). Permission for two-storey side and rear extensions (F/COL/03/0351) and a boot room have also been granted (ref: 101741) more recently for the existing residential use on the site.

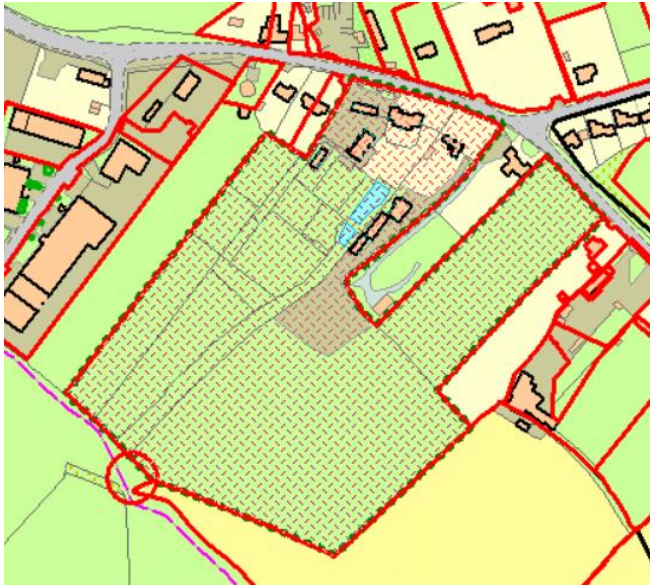
Permission has been previously granted for a conversion of a single storey garage into a residential annex (F/COL/06/1390) on part of the site. Another part of the site also had an application and appeal dismissed for the erection of one dwelling on highway related matters (ref: COL/94/1556 & T/APP/A1530/A/95/252398/P7).

Outline planning permission for residential development has since been granted on land adjacent to the site at north and south of Grange Road for the erection of 103 dwellings with areas of Public Open Space, provision of a new roundabout access and other ancillary infrastructure and works including drainage provision (ref: 122134). A reserved matters application has been approved subsequently and construction of this development has commenced (ref: 151886). This site is included within the development boundary in the emerging Local Plan Policies Map.

#### Site Description

The site is located to north west of Tiptree, south of the B1023 (Kelvedon Road) which links Tiptree with the neighbouring settlements of Feering and Kelvedon. 4.3 The site comprises approximately 5.16ha in total and includes a residential dwelling (Tower End), gypsy and traveller accommodation (Ponys Farm), other residential outbuildings and ancillary space, and disused scrub land.

The site is broadly horseshoe shaped surrounding on three side an additional residential dwelling (The Gables) which is not included within the application area.



The site boundaries are clearly defined in the main by substantial hedgerows, trees and landscaping. There are some additional informal hedgerow/ditch features within the site that form sub-divisions between the ownership parcels. A public right of way runs along the southern boundary of the site, but is outside of the control of the applicant and application site respectively.

There is a site wide TPO in place.

### Consultation Responses

#### Anglian Water

The foul drainage from this development is in the catchment of Tiptree Water Recycling Centre that will have available capacity for these flows. The sewerage system at present has available capacity for these flows.

#### Archaeology

From his saved correspondence Rik confirmed to the applicant's agent that no further archaeological works were required in relation to this site. Trial trenching completely blank.

#### Arboricultural Planner

Regarding the proposed development and the AIA Rev B (March 2021):

I am in agreement with the layout as shown. The proposal requires only minimal loss of trees most of which are of lower value as per Bs5837:2012.

In conclusion, I am satisfied with the arboricultural content of the proposal. Agreement to the landscape aspect of the application subject to condition.

#### Contaminated Land



**GEMCO, Phase 1 Geoenvironmental Assessment, Land South of Kelvedon Road, Tiptree, Ref 1342 R01: Issue 2, dated 13/11/20**

I am in receipt of the above, which has assessed potential contamination risks for the proposed development: this is an acceptable report for Environmental Protection's purposes.

I note that:

- During the site visit, three heating oil tanks in good condition were identified within the western parcel; in the central parcel was a large inaccessible building with suspected asbestos containing cladding and areas of recent localised burning; in the south west corner of the eastern parcel were a number of vehicle tyres and a stockpile of mixed rubble, including suspected asbestos containing materials along its western boundary; localised evidence of made ground.
- The application site has historically been used for agricultural/equine purposes.
- Various infilled former gravel pits are identified beyond the site boundary between 50m and 700m from the application site.
- It has been concluded that there are potential risks to future site users from the made ground and stockpiles, where these will be coincident with areas of soft landscaping in the proposed development.
- It has been recommended that an intrusive investigation, including sampling and relevant laboratory analysis (including for asbestos) should be undertaken to confirm the extent and nature of the made ground and to clarify the assumed initial conceptual site model.

An appropriate asbestos survey has been recommended for all existing buildings prior to demolition and the applicant should be reminded of their duties and obligations with respect to all relevant identified material, in accordance with the Control of Asbestos Regulations 2012, to prevent the creation of any new contamination pathways.

However, based on the information provided, it would appear that this site could be made suitable for the proposed use, with contamination matters dealt with by way of Condition. Consequently, should this application be approved, Environmental Protection would recommend inclusion of the following Conditions:

ZGX - Contaminated Land Part 1 of 4 (Site Characterisation)

ZGY - Contaminated Land Part 2 of 4 (Submission of Remediation Scheme)

ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

ZG0 - Contaminated Land Part 4 of 4 (Reporting of Unexpected Contamination)

ZG3 - \*Validation Certificate\*

Essex County Fire and Rescue

Access appears satisfactory. More detail will be provided at Building Control stage.

Environmental Protection

An Air Quality Assessment is not needed in this instance if the following EV charging is provided.

#### EV Charging points

Residential development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off road parking) and/or 1 charging point per 10 spaces (where off road parking is unallocated)

#### Noise

Prior to construction of the development above ground level, a detailed acoustic assessment and mitigation report, produced by a competent person, which provides details of the noise exposure from the road at the facade of residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces shall be submitted to and approved, in writing, by the Local Planning Authority. Where the internal noise levels exceed those stated in the current version of BS8233 with windows open, enhanced passive ventilation with appropriate sound insulating properties shall be provided to ensure compliance with the current version of BS8233 with windows closed and that maximum internal noise levels at night do not exceed 45dBA on more than 10 occasions a night. Where exposure exceeds the noise levels of 60dBLAeq 16 hours (daytime, 07:00-23:00, outside), 55dBLAeq 8 hours (night, 23:00-07:00, outside) any reliance upon building envelope insulation with closed windows should be justified in supporting documents that cross reference the mitigation measures used. In addition, noise levels in external amenity spaces shall not exceed 55dBLAeq 16 hours, daytime The development shall thereafter be carried out in accordance with any details approved, and shall be retained in accordance with these details thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

#### **ZPA – Construction Method Statement**

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

wheel washing facilities;

measures to control noise and vibration;

measures to control the emission of dust and dirt during construction; and

a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

#### **ZPD - Limits to Hours of Work**

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00-18:00

Saturdays: 08:00-13:00

Sundays and Bank Holidays: No working.

Reason: To ensure that the construction phase of the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise at unreasonable hours.

### **ZCG - Communal Storage Areas**

Prior to the first occupation of the development hereby permitted, details of the management company responsible for the maintenance of communal storage areas and for their maintenance of such areas, shall be submitted to, and agreed in writing by, the Local Planning Authority. Such detail as shall have been agreed shall thereafter continue unless otherwise subsequently agreed, in writing, by the Local Planning Authority.

Reason: The application contains insufficient information to ensure that the communal storage areas will be maintained to a satisfactory condition and there is a potential adverse impact on the quality of the surrounding environment.

### **Boundary fencing**

We recommend a 2m high close-boarded fence is erected along any boundary with existing properties.

### Highway Authority

I've reviewed what I believe to be the latest layout as uploaded to your website on 7<sup>th</sup> April 2021 and so please find set out below my comments.

1. The extent of highway should be added as sourced from <https://www.essexhighways.org/transport-and-roads/highway-schemes-and-developments/adoptions-and-land/highway-status-enquiries.aspx> (any problems with online payment/filling in the form please email [highway.status@essexhighways.org](mailto:highway.status@essexhighways.org) who process the requests)
2. The proposed visibility splays should be shown at the site access off the B1023. These should accord with the speed limit or 85<sup>th</sup> percentile vehicle speeds as determined by a speed survey
3. A swept path for a refuse freighter at the site access should be shown to ensure it would not cross the B1023 centre line
4. There should be a minimum 2 metre wide footway shown across the two sections of site frontage along the B1023
5. The proposed visibility splays for the private drive off the B1023 which would serve plots 74-76 should be shown. Again, these should accord with the speed limit or 85<sup>th</sup> percentile vehicle speeds as determined by a speed survey. The same applies to the proposed footpath connection
6. There is a size 3 turning head annotated in front of plot 3 & 4 but not actually shown
7. The private drives along the main site spine road are shown with radius kerbs when dropped kerb footway crossovers would suffice
8. The size 3 turning head adjacent plot 28 looks to be inadequately dimensioned
9. There should be a size 3 turning head to serve plots 37-52
10. The layout from plots 58-63 in a southerly direction does not represent an adoptable layout and therefore it is assumed would remain private
11. Assuming the whole site would be the subject of a 20 mph zone, traffic calming should be shown to such a way as to ensure the 20 mph zone would be self-enforcing in accordance with the TSRGD

## 12. All junction and forward visibility splays should be shown

As mentioned previously, I remain concerned about the lack of adequate pedestrian and cycle connectivity between the proposal site and the village centre and therefore would appreciate the appellant confirming how this would be improved. Also, what improvements are proposed to encourage the use of public transport. Any proposed works should be shown on a drawing with the application red/blue line and extent of highway clearly shown.

### Highways England

No objection.

### Landscape Planning Policy Officer

The scheme design relies heavily for mitigation on the '*mature boundary vegetation*' for both landscape and visual mitigation. However, the layout shows that a significant part of the southern boundary is to be enclosed into private gardens, thereby giving no control through management of this critical bit of landscape mitigation. It could all be removed by householders. In addition, the fencing is identified as being 1.8m high close boarded fencing which runs straight through the centreline of the hedgerow with trees. To erect this fence would require, therefore, either the severe cutting back of the hedgerow and trees or their removal. This just does not work in design terms and undermines the LVIA approach to mitigation of '*Retention, management and enhancement of existing boundary vegetation including key trees*'. If the close boarded fence is placed on the south side of the tree/hedge line this will further suburbanise views from the countryside and the existing PRow thus increasing the visual impact on the adjoining landscape character. Close boarded fencing is negative for some species movements.

A three-storey block of flats (units 100-107) is included in the layout close to the southern boundary. There is no evidence this will not be visible from the surrounding open countryside.

A limited attempt appears to have been taken to conserve the landscape features that run through the centre of the site, namely the hedgerow and ponds. There appears to have been a boundary along this line since at least 1897, although whether it was a hedgerow or fence line is not clear. The ecology survey concludes that the only way to mitigate the loss of the ponds and the GCN in pond 3 is by off-site mitigation through a district licensing scheme, thus the opportunity to avoid or compensate harm onsite has not been taken. It appears as though 26 trees (as described in the arboriculture assessment) along this hedge line will be lost as a result of the layout. Paragraph 31 of NPPF 2021 makes clear that: '*Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change.*' and '*that existing trees are retained wherever possible.*'

Our emerging Local Plan and the current Environment Bill requires 10% net gain which may need to be factored in.

### LLFA (ECC)

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we wish to issue a **holding objection** to the granting of planning permission based on the following: There has been no additional

information to address our below comments. In addition the proposals have now changed. The drainage scheme should be updated accordingly to address these changes. It should also state how the removal of the existing ponds will not negatively impact surface water flood risk. • Although, the preliminary calculations for the greenfield and post development runoff rates have been provided, however calculations for additional drainage features such as swales added to the site has not been provided. • Updated plans uploaded on the planning portal show changes in the SUDS and drainage layout, however updated engineering drawings and calculations associated to the changes have not been provided. • The basin proposed earlier is now not shown in the updated plans. It is recommended that a basin or pond should be provided as they were proposed to provide a 100year plus 40% climate change attenuation in addition to water quality improvement from pollutant drained off impermeable roads as required by the Essex SuDS Design Guide. Also, such SUDS features would provide multifunctional benefits such as biodiversity and recreational spaces. • Provide water quality simple mitigation index calculations to reflect the updated SUDS layout as per the Essex SuDS Design Guide. • In line with the Essex SuDS Design Guide, rainwater reuse should be considered first when managing surface water drainage. It should be shown how this has been considered. We also have the following advisory comments: • The 0.2m wall around the basin should be avoided where possible as the multifunctionality of the feature should be prioritised. Therefore additional mitigation measures should be considered at the detailed design stage. In the event that more information was supplied by the applicants then the County Council may be in a position to withdraw its objection to the proposal once it has considered the additional clarification/details that are required.

Further response received dated 12 August 2021 confirms that “having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission

The proposed development will only meet the requirements of the NPPF if the measures detailed in the FRA and the documents submitted with this application are implemented as agreed.”

#### Natural England

#### NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

*We understand that you have screened this proposed development and consider that it falls within scope of the Essex Coast RAMS, and that you have undertaken a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) in order to secure any necessary recreational disturbance mitigation, and note that you have recorded this decision within your planning documentation.*

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of European designated sites within scope of the Essex Coast RAMS

#### Urban Design

*Note these comments were provided prior to new NPPF July 2021 given the increased emphasis on design quality, the comments and objections raised should be afforded greater significance.*

These comments are offered further to comments made 8<sup>th</sup> December 2020 and following subsequent revisions. The policy context of this site remains somewhat unsettled and as such the below comments are made without prejudice to the acceptability of the principle of developing the site.

**The proposed density remains at odds with surrounding densities and the prevailing character of the area.** The revised location of the POS is considered far more appropriate. **There remains a lack of incidental green spaces beyond the central POS and it is not possible to comment on the provision of blue and green infrastructure in the absence of a landscaping plan.**

Pedestrian permeability has been enhanced via the southern pedestrian link to Kelvedon Road and as a result achieves a broadly acceptable standard. The proposed road layout appears relatively acceptable in terms of its positioning and the majority of prominent vistas and corners are treated in an appropriate manner. **However, it is not possible to assess if a clear hierarchy of roads is achieved in the absence of hard/soft landscaping details.** The use of a variety of parking treatments is welcomed. The acceptability of larger parking courts would be dependent on structural landscaping, details of which are absent. Policy compliant provision of parking and private amenity space appears to be achieved.

The use of a limited number of house types, a broadly vernacular aesthetic and a consistent materials palette across the site achieves an identifiable site wide character. The use of additive forms and a randomised colourful materials palette creates a degree of visual interest, however substantive vernacular detailing is lacking. As a result of the interrelationship between plots and with the highway, three character areas are evident in plan form. **However, given the homogeneity of architecture and materials, combined with the lack of landscaping details, the character areas lack depth and distinctiveness.**

In summary, the proposed layout is broadly acceptable, however **the built environment lacks substantive architectural detailing and fails to achieve distinctive character areas.** Other general issues are highlighted below.

### **Policy Compliance**

Based upon the above assessment **the proposal fails to create a positive and coherent identity that future users of the space will be able to identify with. Due to a lack of substantive design detail that contributes positively to placemaking, the proposal also fails to provide defined and recognisable character areas and other spaces that create a sense of place, promoting inclusion and cohesion.**

As a result, it is **not considered that the proposal would establish a strong sense of place, add to the overall quality of the area or, create a safe and accessible place with a high standard of amenity for future users.** The proposed development would therefore be **contrary to the above outlined national and local planning policies and guidance.**

### **Conclusions and Recommended Actions**

In light of the above, **the proposal cannot currently be supported in design terms. Revisions should focus on the delivery of distinctive character areas within the site.**

This should be achieved through the provision of landscaping details (most pertinent: surfacing and frontage treatments) and revisions/enhancements to architectural detailing of units.

More general issues that require addressing/suggested revisions include:

- Plots 74 & 76 first floor side facing windows create amenity issues. → Remove said windows.
- First floor windows to the rear of the garage of house type 4.9 create amenity issues. → Remove said windows.
- Plots 2-10, 16, 18-21, 88, 89 and 74 lack cycle storage.
- Brick walls should be used for public facing enclosures. → Plots 88, 90, 99, 109, 114 and 116 require amending.
- The visitor parking space adjacent to plot 11 appears cramped and overly prominent.
- It is not clear which units will be render and which will be weatherboard.
- House types 3.10 and 4.5 have varying size windows on separate plans.
- Ensure plans are submitted for each house type in the relevant material (e.g. house type 4.1 in brick).
- House types 3.9 and 3.12 have an unbalanced composition. → Apply some form of 'crows foot' detail to gable to reinforce balance, e.g. see right.
- The eastern elevation of block A appears ill-proportioned as a result of the asymmetric roof (see below).



- Building elements and openings on Block B appear poorly aligned. → Provide visual articulation between building elements and ensure openings do not span across elements (see below).



- The visual articulation and rhythm of Block C is improved. However, the vernacular aesthetic adopted is at odds with the three storey height. → A town house aesthetic for



the three storey elements may be more appropriate. Possibly utilising pilasters to articulate the rhythm (as per the below) adopting a consistent slate roof and maintaining the feature central gable.



### Neighbours/Interested Parties

This scheme generated a number of objections from neighbours and interested parties.

There were 2 representations of support, 58 objections and 17 general comments/observations.

Some are very detailed, particularly those from adjacent landowners and they have all been carefully considered but it is beyond the scope of this report to set out all of the issues raised verbatim. It is noted that many of these comments came in prior to the change of description.

In summary the objections to the scheme noted the following reasons:

The scheme is premature.

The scheme is too dense.

The proposal is too large.

It prejudices the NP and the allocation.

The scheme even as amended is very poorly designed.

The scheme is outside of the settlement limits.

These houses are not needed.

The scheme is poorly designed.

It won't deliver the requirements of the NP.

It won't deliver the primary street

The scheme will be harmful to my residential amenity.

It will be harmful to the amenity of other consented schemes.

I will be surrounded by development.

I moved here for space and the views but that will be ruined.

The water pressure is already very poor here.

The road network can't take any more development in this area.

There are far too many cars around here already.

The changes to the highway network are fundamentally dangerous.

The access/mini roundabout is a terrible idea.

The site is not suitably sustainably located.

There is enough development in Tiptree already.

The surgery is oversubscribed.



Harm to property value.  
Barbrook Lane was won at appeal.  
Listen to the residents please!  
Tiptree is a village.  
The site is ecologically important.  
It is already dangerous for the kids to get to school.  
No one sticks to the speed limit.  
The proposed roundabout is unworkable.  
The Dentist is oversubscribed.  
The area is not lit will and only has a few streetlights.  
This does not comply with the Local Plan, Emerging Local Plan nor the Tiptree Neighbourhood Plan.  
The density is too high.  
At this density there will be nothing left for the promoters/land owners who have an interest in the rest of this TNP allocation.  
Does this count towards the 600 houses Tiptree needs?  
Infrastructure first please!  
These houses are not needed.  
A four way junction on the A12 is needed.  
We have no Police here and crime is on the rise.  
We have a high water table here – what about surface water run-off?  
Relocating the G&T site will not be straightforward as may not be policy compliant.

In support, the need for housing and the suitability of the site was noted, including the location on the right side of Tiptree.

The library may close.

Why was there no public consultation prior to submission?

10% open space is not enough.

Bungalows are needed but not provided.

There needs to be more parking, especially for the flats.

No trial trenching for below ground heritage assets.

The ecological impact must be assessed including the off site impact on Ramsar's.

#### Any considerations arising under the Equality Act 2010 from representations received or within application supporting documents

None raised explicitly. One passing reference in a representation received. A bespoke equality impact assessment has been carried out but is not on the public file.

This has been very carefully considered but it is held that with the mitigation requested, that being the only method reasonably within the applicant's power in this instance, the scheme complies with the Equality Act 2010.

#### Tiptree Parish Council Comments

Most recently:

Tiptree Parish Council objects to this revised application as per comments previously submitted, namely:

- a) The application is outside the current settlement boundary.
- b) It pre-empted the Neighbourhood Plan. The current settlement boundary will be superseded by a revised settlement boundary when this plan is adopted post-

referendum. Planning proposals should either conform to the current settlement boundary or wait for the adoption of the new settlement boundary.

c) To accept this planning proposal would be unfair to those developers that are following the due process.

The Tiptree NP group noted similar comments but added:

Whilst this plan does meet many of the requirements of the emerging Neighbourhood Plan, the proposals do not fully conform to the requirements of the emerging Plan. We would like to see the promoters engaging with adjacent site promoters in the area designated as 'Tower End' in the emerging Neighbourhood Plan in order to ensure comprehensive development. This is with particular regard to the following:

a. Housing density. The draft Neighbourhood Plan designates for the construction of 175 dwellings at Tower End. There should be agreement between promoters to deliver this total within the area designated on the draft Plan.

b. Dwelling mix. This should be in line with the emerging Neighbourhood Plan, which follows the emerging Local Plan and requires 38% of all units to be 1 or 2 bedrooms (4.9% 1-bed and 33.3% 2-bed)

c. Design of the Primary Street – does not appear to be 6.75m wide.

d. Ensuring the completion of the primary street through engaging with Lawson Planning partnership to ensure the street can cross the strip of land belonging to Robbie Cowling (ref Objection comments submitted by Cowling (2/12/19) and Lawson Planning Partnership Ltd. (29/11/19).

It is noted that other Parish Council's in the area also objected – for example Messing cum Inworth.

### **Material Planning Considerations**

#### **Five 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 complete examination. 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 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 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 x 920 + 5%).

The Council's published Annual Housing Position Statement (May 2020) demonstrated a housing supply of 6,108 dwellings which equated to 5.4 years based on an annual target of 1,078 dwellings which was calculated using the Standard Methodology, prior to the Local Plan being adopted. The 5YHLS was 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) and Land at Braiswick (Appeal Ref: APP/A1530/W/20/324575).

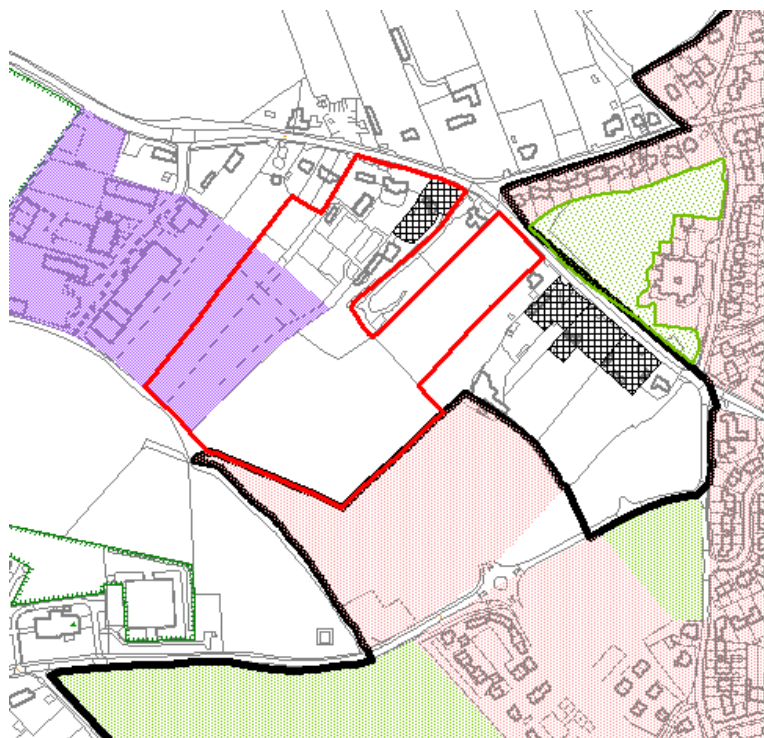
This position has been further improved now the Council has an adopted housing requirement of 920. When the 5% buffer is added the annual target is 966. In accordance with paragraph 73 of the NPPF, the adoption of the strategic housing policy in Section 1 of the Local Plan, means that the adopted housing requirement is the basis for determining the 5YHLS, rather than the application of the standard methodology.

The Council has recently updated its Annual Position Statement in relation to 5-year supply. This shows the Council has a supply of 5564 dwellings against a target of 4830 which equates to a 5.75 year supply over the period 2021/22 – 2025/26.

Given the above, it is therefore considered that the Council can demonstrate a five year housing land supply, and that the tilted balance at paragraph 11 of the NPPF does not apply.

### Policy Principle

In terms of the adopted Local Plan, the site is outside of the settlement limits (black line), it is partially an Employment Zone (purple wash) and has a Gypsy and Traveller Site contained within (black hatching):



The Emerging Local Plan Section 2 is at a very advanced stage, with examination hearing sessions held in April 2021. The Council are awaiting further communication from the Inspector, which is expected imminently.

The Section 2 Local Plan identifies Tiptree as a Sustainable Settlement in the Spatial Strategy (SG1). Policy SS14 outlines that the Tiptree Neighbourhood Plan will allocate specific sites to deliver 600 dwellings over the plan period to 2033, in accordance with the broad directions of growth shown on the Tiptree Policies Map. This proposal is in accordance with the northern broad direction of growth.

Through the examination process, modifications have been proposed by the Council to Policy SS14 and the supporting Policies Map to remove the west and southwest broad directions of growth.

No modifications have been proposed to alter the north broad direction of growth, in this regard, the Plan remains as submitted.

Paragraph 48 of the NPPF states that weight can be given to emerging plans according to the stage of preparation, unresolved objections and degree of consistency of the relevant policies to the NPPF. As the Section 2 Local Plan is at such an advanced stage in the plan making process, weight can be attributed. This proposal therefore accords with Policies SG1 and SS14, as the site is in conformity with a broad direction of growth in Tiptree.

### The Tiptree NP

The Tiptree Neighbourhood Plan Examination commenced in August 2020. The Examiner issued his final report on 9 October 2020; recommending that the Tiptree NP cannot proceed to referendum. This is summarised in paragraph 5.2 of his Report. *“Overall, I find the dominating reliance on community objectives within the SEA process, without proportionate and robust evidence to support the spatial strategy, to be flawed. Therefore, coupled with the inclusion of a route across land in an adjoining parish, I conclude that the plan **does not meet the Basic Conditions or the legal requirements**”.*

As the Plan cannot proceed to referendum, the Tiptree Neighbourhood Plan has now returned to the Regulation 14 stage in the plan making process. In accordance with NPPF Paragraph 48, the Tiptree Neighbourhood Plan cannot be attributed weight in the decision-making process.

### Gypsy & Traveller Matters

A small part of the application site (0.18ha parcel of land) is allocated as a Gypsy and Traveller site in Colchester Borough Council’s (CBC) adopted Local Plan (2011). This site is known as Pony’s Farm. This planning application proposes the use of the site for residential dwellings and sets out how it is intended there will be no net loss of gypsy and traveller provision as a result of the scheme.

Policy SA H2 - Gypsy and Traveller Accommodation of CBC’s adopted Local Plan, allocated sites within the Borough area to provide accommodation for Gypsy and Travellers. Table 1 shows a breakdown of the allocated Gypsy/Traveller sites within Colchester Borough Council’s adopted Local Plan (as shown at Policy SA H2) alongside respective site areas. The site areas have been recorded using the site boundaries

defined on the associated adopted Proposals Maps, and the number of pitches on each site are those confirmed within Policy SA H2.

The agents state that present owner/occupier of Pony's Farm is Mr N Taylor. Mr N Taylor has entered into an agreement applicant to vacate his plot, if planning permission is granted. We understand that Mr N Taylor intends to relocate onto the existing nearby gypsy and traveller site at Colt Farm, approximately 100m to the east. There will therefore be no net loss of pitches.

Policy H5 – Gypsies, Travellers, and Travelling Showpeople, provides the criteria to assist in the identification of new sites. Policy H5 States the following:

*“The Council will identify sites to meet the established need of gypsies, travellers and travelling show people in the borough.*

*The Council will seek to locate sites within reasonable proximity to existing settlements, and with access to shops, schools and other community facilities. Sites should be also providing adequate space for vehicles and appropriate highway access. Any identified need for ‘transit’ (temporary) sites for gypsies and travellers will be met in appropriate locations related to the current working patterns of the travelling community.”*

As Colt Farm has already been allocated through the Local Plan, it is evident that CBC view Colt Farm as an acceptable location for the provision of Gypsy/Traveller accommodation.

Colt Farm currently accommodates 2 pitches on 0.25ha of land, and has average pitch size of 0.125ha. Introducing a 3rd pitch would reduce the average pitch size to 0.08ha, which is still larger than the minimum pitch size requirement.

This will need to be secured via a legal agreement. The applicant is agreeable to that approach, but no binding mechanism is currently in place to secure this.

### Employment Land

As stated in the Planning Statement Addendum October 2020, this site includes a small undeveloped portion (approximately 1ha) of the Tower End Business Park. It is noted the constraints of this undeveloped portion of the employment allocation including land ownership and access.

The Tiptree Neighbourhood Plan proposed to mitigate this loss of employment land by including an area of employment within the mixed-use allocation at Highlands Nursey and Elm Farm (Policy TIP14). As the Tiptree Neighbourhood Plan can no longer be given weight, it is necessary to revert to the Adopted Local Plan on this matter.

Policy DP5 safeguards employment allocations and outlines the criteria-based approach to be considered for change of use. The applicants argue that this land has been allocated for many years and has not come forward and there is not reasonable likelihood of it coming forward now. The loss of any employment land is not supported in principle, however given the specific circumstances of this particular site and that the existing developed portion of the Tower End Business Park is to be retained it is considered that the supply and availability of employment land is sufficient to meet the Borough and local requirements. This is a matter to be considered in the overall planning balance. Para.122

of the NPPF gives support to this approach of re-purposing allocated employment land where there is no prospect of it being brought forward.

## Design Considerations



As can be seen from the Urban Designer consultation responses above, the scheme has many flaws and shortcomings identified as requiring significant revisions to be made for the scheme to be considered acceptable by the Ipa. Consequently, the scheme is not considered to constitute good design. It cannot reasonably be held to be beautiful, and it does not successfully create a sense of place.

Paragraph 20 of the National Design Guide (NDG, MCHLG Updated 2021, 1.10.19) identifies the following components of good design:

- Layout or masterplan;
- The form and scale of buildings;
- Their appearance;
- Landscape;
- Materials, and
- their detailing.

Para.37 of the NDG identifies ten characteristics of well-designed places:

Context – enhances the surroundings;  
 Identity – Attractive and distinctive;  
 Built form – Coherent pattern of development;  
 Movement – Accessible and easy to move around;  
 Nature – enhanced and optimised;  
 Public Spaces – safe, socially inclusive;  
 Uses – mixed and integrated;



Homes and buildings – functional, healthy and sustainable;  
Resources – Efficient and resilient;  
Lifespan – made to last.

The shortcomings of the scheme may be summarised under the following headings:

**Layout as proposed.**

The application site is determined by land ownerships and not good design practice. The omission of 'The Gables' from the application site and the creation of a 'C' shaped site creates an overwhelming barrier to achieving good design by preventing free movement through the site with limited permeability. Approximately 40% of the site lacks east - west linkages and freedom of movement as a result. A limited attempt appears to have been taken to conserve the landscape features that run through the centre of the site, namely the hedgerow and ponds. The secondary streets and cul-de-sacs aligned south east and north west from the spine road are abruptly terminated by the site boundary (or garaging) and unsatisfactory visually and functionally with no onward connectivity.

**Inter relationship with the Gables and wider landscape**

The scheme is constrained by the dwelling at 'The Gables' which deeply punctures, but does not comprise part of, the site. There is no recognition that if this scheme is acceptable then the owners of The Gables are likely to seek to develop their site. This is reflected in their representations. The layout provides very limited potential for future connectivity, leaving one site land-locked by another. If connections were available, the proximity of a number of the proposed dwellings to the boundary of The Gables would make it very difficult to deliver a well-designed scheme with high levels of amenity.

A master planned approach is needed. It is likely that had a master planned approach been adopted then the shortcomings in the submitted layout could have been avoided and opportunities taken to prioritise place making. The layout fails to take opportunities to celebrate the location of the site on the settlement edge adjoining open countryside and to create a positive relationship with its wider setting. The development is insular and introverted and would create an island of suburban-inspired development that lacks any contextual references to the local traditions of settlement morphology in the Tiptree area with informally grouped homes surrounding grazing heathland in a wood-pasture landscape.

**Detailed layout, spaces, viewpoints and vistas, trees and house types.**

The main vista (blue circle 1) terminates in a brutal manner with a fence with no visual interest whatsoever. A further two key vistas terminate without built form and are in locations where even a fence is unlikely to be appropriate.

The proposed house types are generic, lacking in detail and references to the local architectural traditions with a resulting lack of local distinctiveness. The details provided are generic and superficial. Furthermore, no details of sustainable construction or on site micro generation are included.

The blocks of flats are over-scaled and inappropriate to this location on a village edge. The character areas are not well defined by the use of coherent block form, a hierarchy of spaces and shared architectural detailing and materials. A single area of public open space is provided centrally within the site and secondary street frontages are dominated by built form with little opportunity for planting, street trees and seasonal interest from planting.

No hierarchy of spaces would be created throughout the development nor detailed provision for play and social interaction. The resulting character of the 'place' would not be attractive nor distinctive. Nature is not enhanced nor optimised through the development with a single area of POS and the remainder of the site area under private ownership/maintenance regimes.

The scheme retains the most important trees on site but requires the loss of a number of lower category trees and the existing hedgerow within the site as a landscape feature. Para. 131 of the NPPF places a greater emphasis on the importance of trees in new development to enhance the quality, character and climate resilience of urban environments. New streets should be tree lined and species contextually appropriate. Whilst the principal distributor road is shown to be tree lined, the trees appear to be close to the frontages of houses and not set within the adopted highway. It seems likely that in such circumstances only small trees are capable of inclusion and these are likely to come under pressure for removal as they develop and shade homes, drop leaves and are seen as a potential nuisance.

Instead, a well-designed scheme should seek to ensure that the street design is capable of accommodating trees of appropriate stature within the public realm of the adopted highway to secure their long-term maintenance and retention. The submitted scheme does not achieve this aim with trees and built frontages in close proximity and likely to result in antagonism and removal. The scheme requires the removal of two existing ponds within the site (one with GCN population) and yet makes inadequate provision for on site mitigation and biodiversity net gain including the creation of natural surface water SUDS features.

#### **Inter-relationship with adjacent settlement including connectivity.**

The application site is essentially located on the settlement edge and has an important interface with the surrounding countryside to the north west and south east. It is highly regrettable that the northern western and southern built frontages turn their backs to the countryside with hard boundary treatments inevitably creating an alien and incongruous interface to the contextual landscape in a wholly disrespectful manner. The scheme thereby fails not only to enhance context but even to preserve it adequately.

Where hedgerows do exist currently, unless these remain within public space and capable of control, it is likely they will be removed over time (or outgrow and die out or be felled) and replaced by low maintenance timber fencing or other hard boundary treatments. The scheme proposes a close boarded fence along the SE boundary hedgerow and this would require the severe cutting back of the hedgerow and associated trees to facilitate installation. The principal street terminates abruptly at the south western site boundary whilst secondary streets aligned east and west are also terminated against the site boundary.

#### **Ecology**

The application is supported by a Preliminary Ecology Report from 2019 and an updated Ecology Report dated 2020 that reporting the results of the surveys that had been recommended. That found:



>There is no existing bat roost within any of the buildings on site. There are no field signs of any past bat roost presence. No further building bat roost assessment or comment is required.

>For any future tree removal, a suitable bat roost assessment will be first required – with a subsequent suitable presence or absence survey for any medium/high value roost feature identified.

>There is a small population of Common Lizards along the central hedgerow on site. These reptiles will require suitable retention mitigation as part of any planning approval.

>The site has no invertebrate presence that would warrant further survey effort. No further invertebrate survey efforts are required.

>A Great Crested Newt presence was recorded in pond 3 within the proposed development site.

The tree removal bat survey can be carried out via condition. The common lizard retention/mitigation can also be achieved by condition. The GCN's are to be dealt with via the district level licensing scheme run by Natural England.

It is therefore held that with appropriate ecological mitigation conditions, the scheme is acceptable in ecological terms.

#### Habitats Regulations Assessment (HRA) /Appropriate Assessment (AA)

It is necessary to assess the application in accordance with the Habitats and Species Regulations 2017 (as amended). The whole of Colchester Borough is within the zone of influence of a European designated site and it is anticipated that the development is likely to have a significant effect upon the interest features of relevant habitat sites through increased recreational pressure, when considered either alone or in-combination with other plans and projects. An appropriate assessment was therefore required to assess recreational disturbance impacts as part of the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS).

A shadow HRA was requested and was duly provided. The LPA then drafted an appropriate assessment (AA).

The applicants argue that there is not space for on-site SANGS and are relying on the RAMS financial contribution only. This further demonstrates the density of the scheme as the majority of scheme with 100 or more house do provide on-site measures.

The AA concluded that on balance, with a financial contribution to the Essex Coast RAMS as mitigation the scheme would be acceptable.

Natural England support the findings of the AA. The RAMS financial contribution will be secured via legal agreement.

#### Flood Risk

The site is located in Flood Zone 1. An FRA has been provided and this assessment has investigated the possibility of groundwater flooding and flooding from other sources at the

site. It is considered that there will be a low risk of groundwater flooding across the site and very low risk of flooding from other sources such as surface water.

An assessment of the practical use of sustainable drainage techniques has been carried out. As the soil types will support the effective use of infiltration devices, it is proposed that surface water from driveways, parking areas and minor access roads will be drained using permeable paving, and surface water from roofs drained to soakaways.

The detail of the SuDS scheme is still being bottomed out. As the LLFA still have a holding objection with regards to the detail as set out in their response above, this needs to be the subject of a holding reason for refusal. It is reasonably likely that the issue remaining will be resolved out and if so this reason can be withdrawn at a later date.

### Health Impact Assessment

Policy DP2 requires all development should be designed to help promote healthy lifestyles and avoid causing adverse impacts on public health. Health Impact Assessments (HIA) are required for all residential development in excess of 50 units, with the purpose of the HIA being to identify the potential health consequences of a proposal on a given population, maximise the positive health benefits and minimise potential adverse effects on health and inequalities. A HIA must consider a proposal's environmental impact upon health, support for healthy activities such as walking and cycling, and impact upon existing health services and facilities. Where significant impacts are identified, planning obligations will be required to meet the health service impacts of the development.

The NHS have assessed the HIA and in this instance do not object to it. They have requested a financial contribution towards expanding their services and the applicants have accepted this.

### Air Quality

Environmental Protection had initially asked for an Air Quality Assessment when the number of dwellings proposed was 150 but following clarification from the AQ Team at Chelmsford CC it was concluded it was not needed. The numbers were then reduced to 130. The site is not in an AQMA and is in an edge of settlement location. In this instance, subject to the conditions they have suggested for EV charging points, it is held that the scheme is not reasonably likely to cause demonstrably harmful impact on air quality.

### Highways

Many of the representations received note the impact of this scheme on the highway network. Many consider the housing to be fundamentally unacceptable due to the impact of any new car trips in the area. Some raise issues of detail with regards to the highway geometry.

As can be seen from the latest response above, there are still issues with the two access points onto Kelvedon Road. The highway boundary is not yet known so it has not yet been established that the visibility splays proposed or relied upon are achievable. Further to this the internal/external layout has a number of geometry issues as identified by the highway authority:

13. The proposed visibility splays should be shown at the site access off the B1023. These should accord with the speed limit or 85<sup>th</sup> percentile vehicle speeds as determined by a speed survey

14. A swept path for a refuse freighter at the site access should be shown to ensure it would not cross the B1023 centre line
15. There should be a minimum 2 metre wide footway shown across the two sections of site frontage along the B1023
16. The proposed visibility splays for the private drive off the B1023 which would serve plots 74-76 should be shown. Again, these should accord with the speed limit or 85th percentile vehicle speeds as determined by a speed survey. The same applies to the proposed footpath connection
17. There is a size 3 turning head annotated in front of plot 3 & 4 but not actually shown
18. The private drives along the main site spine road are shown with radius kerbs when dropped kerb footway crossovers would suffice
19. The size 3 turning head adjacent plot 28 looks to be inadequately dimensioned
20. There should be a size 3 turning head to serve plots 37-52
21. The layout from plots 58-63 in a southerly direction does not represent an adoptable layout and therefore it is assumed would remain private
22. Assuming the whole site would be the subject of a 20 mph zone, traffic calming should be shown to such a way as to ensure the 20 mph zone would be self-enforcing in accordance with the TSRGD
23. All junction and forward visibility splays should be shown

These matters warrant a holding reason for refusal at this time. As with the SuDS, it is reasonably likely that these will be resolved, and if so that this can be withdrawn at a later date.

### Impact on Amenity

Windows have been angled away from existing gardens for the most part to avoid overlooking and there is no concern with regards to loss of light or oppressiveness. The dwelling at 'The Gables' will certainly feel a sense of change as they will be surrounded by new residential development, including the car park for the flats close to their rear elevation. It's not a wholly comfortable situation but is symptomatic of the unusual site shape. On balance it is not held to be materially harmful and capable of landscape mitigation.



The representations from other neighbours and from the developer of the adjacent site have been carefully considered but it is not considered that the scheme is materially harmful to neighbouring amenity. It is accepted that some of the relationships with the new dwellings to the south are close and, in some respects, unfortunate – for example plots 90 and 91, however they are not held to be materially harmful to neighbouring amenity to the point that warrants a refusal of the scheme on that basis.

### Other Matters

Many of the representation noted the impact on infrastructure in the area. The impacts on services will be mitigated by the contributions as set out below. Other representations noted issues with the scheme in terms of the Tiptree NP and the impact on the rest of the allocation/the failure to comply with the requirements of the NP. As the NP can be given no weight these do not warrant a refusal. Then need for housing is a national requirement. The number required for Tiptree to be allocated via the NP is still a matter for consideration.

### Development Team Planning Obligations/Developer Contributions

The proposals were considered by the Colchester Development Team on the 12 November 2020 in accordance with Regulation 122(2) of the Community Infrastructure Regulations (2010).

Three planning obligations were agreed as necessary to secure: affordable housing, public open space and relocation of the existing Gypsy and Traveller pitch to an adjacent site.

#### Affordable Housing – Policy compliant obligation request as follows:-

- 30% affordable housing (on the basis that this site is not allocated as residential under the currently local plan.
- 39 affordable dwellings requested.
- Dwelling sizes and types of the affordable housing to be proportionate to the market housing.
- 95% of the affordable dwellings to meet Part M4 Cat 2 with the exception of upper floor flats.
- 5% to meet Part M4 Cat 3 2 B wheelchair accessible (this would equate to 2 dwellings out of the 39 dwellings).
- Tenure mix of no less than 80% affordable rent and no more than 20% shared ownership. This would equate to no less than 31 dwellings for affordable rent.
- If Shared Ownership dwellings are included in the scheme, they can be a mix of sizes but the majority must not be family homes.
- Affordable housing must meet a minimum of Part M4 Cat 2 (with the exception of the upper floor flats).

Beds	Property	Type	Total	Proposed Affordable	30% Policy Affordable	Affordable requested
1	Flat	1b/2p Wheelchair Cat 3	3	3	0.9	3
1	Flat	1b/2p	7	7	2.1	5
2	Flat	2b/3p	2	2	0.6	0
2	Flat	2b/4p	9	9	2.7	9
2	FOG	2b/4	1	0	0.3	0
3	House	3b/4p	2	0	0.6	0
3	House	3b/4p (3.8 & 3.9)	19	6	5.7	6
3	House	3b/4p (3.1)	2	0	0.6	0
3	House	3b/6p (3.6)	20	0	6	0
3	House	3b/5p (3.2) ensuite	1	1	0.3	1
3	House	3b/6p (3.10)	15	7	4.5	7
3	House	3b/6p (3.11) ensuite	1	0	0.3	0
3	House	3b/6p (3.12)	7	4	2.1	4
4	House	4 bed	36	0	10.8	4
4	House	5 bed	5	0	1.5	0
			130	39	39	39

Financial Contributions were requested and agreed as follows having regard to para.55-58 NPPF :

Community Facilities: A total request for £375,833.56. Project identified – New Multi use youth facility - Tiptree Scout Hut. A complete rebuild is the desired option for both the Scout Group, the Parish Council and CBC. The new ‘Scout hut – youth facility’ would be open to all uniformed youth groups and other youth organisations and would be built on land owned by the Parish Council. The proposal is considered CIL compliant as the project is within Tiptree and the Parish Council and the Scouting Association believe that a new multi-use youth facility is necessary to both support current and future populations. The increase in population due to this development will no doubt cause further pressure on existing sites, so it is integral that a contribution is agreed to sustain the local services and to mitigate the impact of the proposed development

Our standard Community Facility methodology has been used.

<https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01208> and the resulting calculation is as follows:

Contributions required per unit

No. Bedrooms	
Studios and 1 bedroom	£772.53
2 bedrooms	£1,545.06
3 bedrooms	£2,703.85
4 bedrooms	£3,862.65
5 bedrooms	£4,635.18
6 bedrooms	£5,407.71

Total contributions required

7 (1 bed units) x £772.25 =	£5,407.71
18 (2 bed units) x £1545.06 =	£27,811.08
57 (3 bed units) x £2703.85 =	£154,119.45
44 (4 bed units) x £3862.65 =	£169,956.60
4 (5 bed units) x £4635.18 =	£18,540.72

= £375,833.56 in accordance with adopted SPD.

NHS – £54,000 requested to create additional surgery capacity at Tiptree Medical Centre on basis of formulae derived from NHS England (A Health Impact Assessment).

**Table 2: Capital Cost calculation of additional primary healthcare services arising from the development proposal**

Premises	Additional Population Growth (150 dwellings) <sup>5</sup>	Additional floorspace required to meet growth (m <sup>2</sup> ) <sup>6</sup>	Spare Capacity (NIA) <sup>7</sup>	Capital required to create additional floor space (£) <sup>8</sup>
	345	23.66	-433.51	£54,418
<b>Total</b>	<b>345</b>	<b>23.66</b>	<b>-433.51</b>	<b>£54,418</b>

otes:

5. Calculated using the Colchester Borough average household size of 2.3 taken from the 2011 Census: Rooms, bedrooms and central heating, local authorities in England and Wales (rounded to the nearest whole number).
6. Based on 120m<sup>2</sup> per 1750 patients (this is considered the current optimal list size for a single GP within the East DCO). Space requirement aligned to DH guidance within "Health Building Note 11-01: facilities for Primary and Community Care Services"
7. Existing capacity within premises as shown in Table 1.
8. Based on standard m<sup>2</sup> cost multiplier for primary healthcare in the East Anglia Region from the BCIS Public Sector Q3 2015 price & cost Index, adjusted for professional fees, fit out and contingencies budget (£2,300/m<sup>2</sup>), rounded to nearest £100.

Ac  
Co

This request is CIL compliant as it seeks to mitigate impact of growth on primary healthcare facilities that serve the development site. The figure is calculated on a standardised methodology derived from the known demand generated by residents on primary healthcare facilities.

Updated additional request has since been received dated 04.08.21 as set out below: The proposed development is likely to have an impact on the services of Tiptree Medical Centre GP practice operating within the vicinity of the application site. This GP practice does not have capacity for the additional growth resulting from this development. The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. As the Commissioner of Primary Care Services, North East Essex CCG would therefore expect these impacts to be fully assessed and mitigated.

The development would give rise to a need for improvements to capacity, in line with emerging STP Estates Strategy; by way of refurbishment, reconfiguration, extension, or potential relocation for the benefit of the patients of Tiptree Medical Centre or through other solutions that address capacity and increased demand as outlined in 5.3 - Health & Wellbeing Statement. For this a proportion of the cost would need to be met by the developer calculated as follows.

**Table 2: Capital Cost calculation of additional primary healthcare services arising from the development proposal**

Premises	Additional Population Growth (130 dwellings) <sup>5</sup>	Additional floorspace required to meet growth	Spare Capacity (NIA) <sup>7</sup>	Capital required to create additional
----------	---	---	-----------------------------------	---------------------------------------



		(m <sup>2</sup> ) <sub>6</sub> MUST BE TO TWO DECIMAL PLACES		floor space (£) <sub>8</sub>
	299	20.50	-464.41	£79,376
<b>Total</b>	<b>299</b>	<b>20.50</b>	<b>-464.41</b>	<b>£79,376</b>

**Notes:**

1. Calculated using the Colchester Borough average household size of 2.3 taken from the 2011 Census: Rooms, bedrooms and central heating, local authorities in England and Wales (rounded to the nearest whole number).
2. Based on 120m<sup>2</sup> per 1750 patients (this is considered the current optimal list size for a single GP within the East DCO). Space requirement aligned to DH guidance within "Health Building Note 11-01: facilities for Primary and Community Care Services"

Open space/Parks & Recreation – Request based upon formula set out within Provision of Open Space, Sport and Recreational Facilities SPD (adopted 24 July 2006) totals £792,000. But if open space on site is to be managed by CBC, an additional request is made for £31,974.50 in respect of maintenance.

Financial contribution proposed to be allocated on basis of:

Ward Projects (65%) £514,800 towards:

- £220,000 - Grove Lake – dredging of both ponds and landscaping -
- £100,000 - Grove Road Recreation Ground – to provide a Multi-Use Games Surface that will be free to the residents of Tiptree, which could include a Five-A- Side kick about area and basketball and/or netball hoops -
- £125,000 - Facilities at Warriors Rest – provision of woodland footpaths, seating/picnic area and to that will be free to the residents of Tiptree
- £40,000 - Grove Road Recreation Ground Adult Gym
- £20,000 - Caxton Close / Community Centre, enhancing of infants' playground

Borough Projects (35%) £277,200 towards:

- £134,000 - Leisure World projects to increase capacity
- £25,000 - High Woods Country Park Visitor Centre enhancement to centre to help with accessibility and counter arrangements.
- £80,000 - High Woods Country enhancement of playground
- £38,300 - High Woods Country Park enhance to pathways for better accessibility for all users at Friars Grove Plantation and Brinkley Grove Wood

The request was considered compliant with the CIL Regulations as the quantum of the request is based on the formulae within the adopted SPD and the projects identified for spend have been allocated funding to deliver mitigation for impacts of growth on existing facilities in accordance with CIL Reg 122(2) and para.55-58 NPPF.

Education – A total contribution of £1,051,889.40 was requested based on a formula-based agreement, unit mix fluctuations will be addressed. Updated figures provided setting out primary and secondary school places generated directly by the development: 34.20 primary school pupils, at a cost-per-place of £15,281.00 = £522,610.20. This sum is to be index-linked to April 2018. 22.80 secondary school pupils, at a cost-per-place of £23,214.00 = £529,279.20. This sum is to be index-linked to April 2018. Request in accordance with ECC Developers Guide to Infrastructure Contributions (2020) an evidence based SPD that provides a standardised methodology for calculating the quantum due from the developer to mitigate the impact of growth on education. This is

considered CIL Reg 122(2) compliant as the request is necessary and directly related to the development and fair and reasonably related in scale to the development.

## **Conclusion**

The scheme is held to constitute poor design and does not meet the requirements of the recently amended NPPF 2021 or the allied National Design Guide. It fails to secure mitigation for off-site protected areas, fails to secure the other mitigation required and at the time of writing, failed to demonstrate that the scheme would not cause a severe impact on the highway network nor have a suitable on site SuDS scheme.

**Therefore, had it remained for the Council to determine this application, planning permission would have been refused for the following reasons:**

### **1.0 Design**

The National Planning Policy Framework (2021) sets out the government's planning policies for England and how these are expected to be applied through allied guidance.

Good design is central to delivering sustainable development and in particular the social and environmental dimensions. The Framework states that *'the creation of well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities health and social well being'* is integral to the social dimension of sustainable development, whilst protecting and enhancing our natural, built and historic environment lies at the heart of the environmental dimension. (paras.8.b/c NPPF).

The Framework explicitly states that *'the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve'* and that *'Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'*. (para.126 NPPF). The Framework sets out the key design objectives that proposals should satisfy at para.130 whilst confirming at para.134 that *'development that is not well designed should be refused especially where it fails to reflect local design policies and Government guidance on design.'*

The Council considers that the proposed development does not meet the key design objectives for high quality design set out in national policy and guidance (para. 130 NPPF and para.37 of the National Design Guide) and that objectively does not, by definition, represent high quality design or sustainable development. For these sound planning reasons the development should be refused as it conflicts with the Government's intention to promote high quality design and beautiful places that respond to and enhance local distinctiveness.

The proposed development fails specifically to:

- Respond positively to site context;
- Create a coherent and distinctive identity that the community will identify positively with;
- Employ a cohesive and coherent pattern of development that reinforces local distinctiveness;
- Create a highly accessible and permeable layout that integrates well with neighbouring development and routes;



- Enhance and optimise the opportunities for biodiversity including net gain;
- Create public spaces of varying scale, purpose and character throughout the scheme to create a hierarchy of new spaces for safe social interaction for residents of all ages, including play;
- Provide opportunities for mixed uses and ensure that the development is socially inclusive through an appropriate mix of house types and tenures secured by legal agreement;
- Deliver homes with a richness of architectural detail and sustainability credentials;
- Use resources efficiently and minimise emissions to mitigate climate change; and
- Create an adaptable and resilient pattern of development to ensure longevity of use.

The proposal accordingly conflicts with the objectives of adopted LDF 2001-2021 policies UR2 – Built Design and Character, ENV1 Environment of the Core Strategy (2008, Revised 2014) and allied Development Policy DP1 Design and Amenity (2010, 2014). In addition, the proposals conflict with the policy objectives of the emerging Local Plan 2017-2033 Policies SP7 – Place Shaping Principles, ENV1 – Environment, and DM15 - Design and Amenity. These policies combined seek to deliver responsive, inclusive, sustainable and high-quality design through new development, which the proposal fails to achieve.

## **2.0 Impact on Protected Areas**

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a Special Protection Area must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. The proposed residential development does not meet these tests or requirements, and it must provide appropriate mitigation of likely adverse effects in this context.

There is no mechanism in place to secure appropriate on-site mitigation in accordance with The Conservation of Habitat and Species Regulations 2017. Furthermore, there is no legal mechanism in place to secure a financial contribution in accordance with the requirements of the adopted Essex Coast RAMS SPD (May 2020). In the absence of this on-site and off-site mitigation 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 and contrary to the Local Development Framework Development Policy DP21 - Nature Conservation (adopted 2010, revised 2014), and Policy ENV1 - Environment of the emerging Local Plan (2017-2033).

## **3.0 Lack of Mechanism to secure mitigation/obligations/financial contributions**

The application fails to include a legally binding mechanism to secure essential planning obligations and financial contributions required to deliver the proposed development and provide essential infrastructure to support growth and the needs of new residents. The Obligations comprise 30% affordable housing provision, provision of public open space and relocation of a Gypsy and Traveller site to a nearby off-site location (as set out in the applicants supporting statement to facilitate delivery of the development). The financial contributions necessary to deliver the essential requisite local infrastructure comprise: the

expansion of GP healthcare facilities, sport and recreation facilities; community facilities, education (primary and secondary school places).

In the absence of a legally binding mechanism to secure delivery of these obligations/contributions, the proposal is therefore contrary to national and local policies which together seek to ensure that the requisite infrastructure is delivered to support growth and mitigate the impact of development. National policies comprise the sustainable development principles within the NPPF (paragraphs 8, 61, 62, 92 and 96) and specifically paras 34, 55-58. The absence of an appropriate delivery mechanism would also be contrary to adopted Local Plan 2017-2033 Policy SP6 Infrastructure and Connectivity, and LDF policies (2010, revised 2014) comprising Core Strategy Policy Policy H4 (Affordable Housing) together with adopted Development Policies DP3 (Planning Obligations and the Community Infrastructure Levy), DP16 (Private Amenity Space and Open Space Provision for New Residential Development), Policy H5 (Gypsies, Travellers, and Travelling Showpeople) and Policy SA H2 (Gypsy and Traveller Accommodation) . Furthermore, such an omission and resulting non-provision would be contrary to the relevant adopted Supplementary Planning Documents titled: Affordable Housing (adopted 15th August 2011); Provision of Community Facilities (adopted 28th September 2009 updated July 2013), Provision of Open Space, Sport and Recreational Facilities (adopted 24 July 2006) Finally, such an omission is contrary to Supplementary Guidance issued by Essex County Council (Developers' Guide to Infrastructure Contributions (revised 2016) and NHS England (A Health Impact Assessment).

#### **4.0 Highways**

Development Plan Policy DP17 (2010, revised 2014) requires access to all development to be created in such a manner to maintain the right and safe passage of all highways users. As far as can be determined from the information submitted to support the planning application, the applicant has not demonstrated that they own or control sufficient land to provide the required vehicular visibility splays. The lack of such visibility would result in an unacceptable degree of hazard to all highway users to the detriment of highway safety. Furthermore, issues have been identified by the highway authority concerning the highway geometry of the site namely:

1. The proposed visibility splays should be shown at the site access off the B1023. These should accord with the speed limit or 85th percentile vehicle speeds as determined by a speed survey
2. A swept path for a refuse freighter at the site access should be shown to ensure it would not cross the B1023 centre line
3. There should be a minimum 2 metre wide footway shown across the two sections of site frontage along the B1023
4. The proposed visibility splays for the private drive off the B1023 which would serve plots 74-76 should be shown. Again, these should accord with the speed limit or 85th percentile vehicle speeds as determined by a speed survey. The same applies to the proposed footpath connection
5. There is a size 3 turning head annotated in front of plot 3 & 4 but not actually shown
6. The private drives along the main site spine road are shown with radius kerbs when dropped kerb footway crossovers would suffice
7. The size 3 turning head adjacent plot 28 looks to be inadequately dimensioned
8. There should be a size 3 turning head to serve plots 37-52

9. The layout from plots 58-63 in a southerly direction does not represent an adoptable layout and therefore it is assumed would remain private
10. Assuming the whole site would be the subject of a 20 mph zone, traffic calming should be shown in such a way as to ensure the 20 mph zone would be self-enforcing in accordance with the TSRGD
11. All junction and forward visibility splays should be shown

These would result in potential safety issues and would therefore result in a non-adoptable layout. The appellant has failed to resolve these issues.

Development plan Policy DP17 also requires that all developments seek to enhance accessibility for sustainable modes of transport by giving priority to pedestrian cycling and public transport access. The proposed development makes inadequate provision for pedestrian and cycle connectivity between the development and the village centre and therefore would require the appellants to demonstrate design improvements to remedy this. No detail is provided of what improvements are proposed to encourage the use of public transport. [Any proposed works should be set out on a drawing with the application red/blue line and extent of highway clearly shown].

<b>Case Officer's Initials and Date:</b> <b>JXR 12.08.2021</b>	<b>Authorising Officer's Initials and Date:</b> <b>SJC 12.08.21</b>
---	--