

Tiptree Neighbourhood Plan

Report of Examination

Report to Colchester Borough Council

by the Independent Examiner:

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Summary

1. From my examination of the submitted Tiptree Neighbourhood Plan, the supporting documents, and taking into account all the representations made, I have concluded that the Neighbourhood Plan should NOT proceed to a referendum.
2. I have concluded that the plan does NOT meet the Basic Conditions. In summary, the Basic Conditions are:
 - a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.
 - b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.
 - c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.
 - d. the making of the neighbourhood plan contributes to the achievement of sustainable development.
 - e. the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area.
 - f. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
 - g. prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the plan.
3. I have concluded that the neighbourhood plan would meet certain legal requirements in that:
 - It has been prepared and submitted for examination by a qualifying body;
 - It has been prepared for an area properly designated;
 - It does not relate to “excluded development”;
 - It specifies the period to which it has effect – to 2033; and
 - The policies relate to the development and use of land for a designated neighbourhood area.
4. However, as the plan covers one neighbouring plan area, by extending a proposal into the neighbouring parish, it does not meet the legal requirements.

1. Introduction

- 1.1 I am appointed by Colchester Borough Council, with the support of Tiptree Parish Council (the Qualifying Body), to undertake an independent examination of the Tiptree Neighbourhood Plan, as submitted for examination.
- 1.2 I am an independent planning and development professional of 40 years standing and a member of NPIERS' Panel of Independent Examiners. I am independent of any local connections and have no conflicts of interests.

The Scope of the Examination

- 1.3 It is the role of the Independent Examiner to consider whether making the plan meets the Basic Conditions. These are:
 - a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.
 - b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.
 - c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.
 - d. the making of the neighbourhood plan contributes to the achievement of sustainable development.
 - e. the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
 - f. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
 - g. prescribed conditions are met in relation to plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 1.4 Regulations also require that the Neighbourhood Plan should not be likely to have a significant effect on a European Site or a European Offshore Marine Site either alone or in combination with other plans or projects.
- 1.5 In examining the Plan I am also required to establish if the plan complies with certain legal requirements; in summary, they are whether it:
 - Has been prepared and submitted for examination by a qualifying body;

- Has been prepared for an area that has been properly designated;
- Meets the requirements that they must not include excluded development;
- Relates to one Neighbourhood Area; and
- Relates to the development and use of land.

1.6 Finally, as independent Examiner, I must make one of the following recommendations in relation to the Plan proceeding to a Referendum:

- a) that it should proceed to Referendum on the basis that it meets all legal requirements; or
- b) that, once modified to meet all relevant legal requirements, it should proceed to Referendum; or
- c) that it should not proceed to Referendum on the basis that it does not meet the relevant legal requirements.

1.7 Second, if recommending that the Plan should go forward to Referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Designated Area to which the Plan relates.

The Examination process

1.8 I was formally appointed to examine the Neighbourhood Plan in July 2020 and commenced the examination in August. The default position is that neighbourhood plan examinations are conducted by written representations. I have completed the examination from the submitted material. I conducted an unaccompanied site visit. I submitted a draft of this report, for purely fact-checking purposes, on 7th September; the QB and LPA responded on 9th October.

The Examination documents

1.9 In addition to the legal and national policy framework and guidance (principally The Town and Country Planning Acts, Localism Act, Planning and Compulsory Purchase Act, Neighbourhood Planning Act and Regulations, the National Planning Policy Framework, Written Ministerial Statements and the Planning Practice Guidance) together with the development plan, the relevant documents that were furnished to me - and were identified on the Council's website as the neighbourhood plan and its supporting documentation for examination - were:

- Proposed Neighbourhood Plan;
- Map showing Tiptree Neighbourhood Plan Area;
- Basic Conditions Statement;
- Consultation Statement, with 44 appendices;
- Strategic Environmental Assessment Report and 3 appendices; plus Non-Technical Summary;
- Habitat Regulations Assessment Report;

together with:

- 64 responses received under Regulation 16 (referred to later; I was sent 65 but Historic England was listed twice).

1.10 At the time I was sent the representations the Council and Qualifying Body updated me on two matters: a) the current position on the emerging Local Plan (see later); and b) the results of two planning appeals. On 7th April 2020 the Secretary of State allowed an appeal by Gladman Developments for up to 200 dwellings (30% of which to be affordable) on land at Barbrook Lane, outside but adjacent to the eastern settlement boundary in the adopted plan. Subsequently, on 18th August 2020, an appeal by Bloor Homes for 255 dwellings on land off Maldon Road, also located outside of the settlement boundary, was dismissed.

The Qualifying Body and the Designated Area

1.11 Tiptree Parish Council is the Qualifying Body. Colchester Borough Council, as the local planning authority, designated the neighbourhood area in 2015. The Neighbourhood Plan area is contiguous with the boundary of Tiptree parish. The neighbourhood plan has been prepared by the Tiptree Neighbourhood Plan Steering Group under the umbrella of Tiptree Parish Council.

The Neighbourhood Plan Area

1.12 The plan area is focused on the village of Tiptree, which lies on the south facing slopes of the Tiptree ridge, close to the south-west boundary of Colchester Borough, some 15km from the town itself. The village has a long history – which has left its mark on the landscape - though it only really grew in the 1800s. It saw much post-war development as a GLC overspill location; today it has a population of over 9,000. There is a small, detached, cluster of houses, to the south-west, known as Tiptree Heath.

1.13 The plan notes that the village has a high number of key services and community facilities: three supermarkets, community centre, health centre and range of independent shops and cafes and restaurants. There are four primary schools and a secondary school, a leisure centre, a football training ground and four main employment areas, one being the eponymous jam factory. There are regular bus services from Colchester during the day; none by late evening.

1.14 The plan area contains a range of open and recreational spaces, wildlife sites – many of which are owned by the parish council - and Tiptree Heath. There are 23 listed buildings and a number of buildings of local interest.

2. Neighbourhood Plan preparation and public consultation

The Neighbourhood Development Plan

2.1 The document is well presented and easy to follow, comprising fifteen sections (with section 1 as the contents page). Sections 2-4 are introductory

and set the context; section 5 outlines the challenges for Tiptree, the vision for the plan area and the 31 objectives, spread across a number of topic areas. It also contains the Policies Map and a map of the plan's site allocations. These sections set the scene for the policy sections, which follow: Sections 6 to 14, which cover the plan's 17 policies; the final section deals with Non-Policy Actions, which are non-land use matters that the local community advocate. There are no appendices.

- 2.2 At the heart of the plan is the need to plan for 600 homes, arising from strategic policy in the development plan and the emerging local plan. The plan seeks to accommodate these homes on three sites – made up of two site allocations - located to the north and north-west of the village. These three sites are expected to accommodate a new Primary Street – a set of link roads, in a form of a by-pass - so that development can access main routes, taking traffic away from the village (to the A12 and nearby stations, in particular) and so minimising the impacts of traffic passing through the village centre. This is the plan's driving objective and shapes the spatial strategy of the neighbourhood plan. The settlement boundary is drawn around the village and these allocations.
- 2.3 The rest of the plan flows from this spatial strategy and deals with the other issues and challenges of the plan, such as local character and design, movement, the village centre, commercial activity, community infrastructure, the countryside and green spaces, and the historic environment.

Strategic Environmental Assessment (SEA)

- 2.4 The Basic Conditions Statement confirms that: "The Plan and the process under which it was made conforms to the SEA Directive (EU 2001/42/EC) and the Environmental Assessment of Plans and Programmes Regulations 2004 (the Regulations). At an early stage in the development of the Neighbourhood Plan, it was agreed that an SEA would be needed. In May 2019, following a scoping exercise which took on board comments from the statutory bodies (the Environment Agency, Natural England and Historic England), a draft SEA report prepared by Colchester Borough Council was published. This accompanied the publication of the Pre-Submission (Regulation 14) Neighbourhood Plan. The draft SEA report demonstrated that, when considered against alternative options, the draft Neighbourhood Plan would have a number of positive effects and no negative effects. Some mitigation measures were recommended.
- 2.5 Following comments at Regulation 14 stage, the Neighbourhood Plan was amended. This included the mitigation measures recommended in the SEA. The SEA was reviewed and updated as necessary. The overall conclusion was the same, namely that the Tiptree Neighbourhood Plan would not be likely to have any significant environmental effects arising either individually or cumulatively.'

Appropriate Assessment

- 2.6 The Basic Conditions Statement confirms that: "Under Directive 92/43/EEC,

also known as the Habitats Directive, it must be ascertained whether the draft Plan is likely to breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. Assessments under the regulations are known as Habitats Regulation Assessments ("HRA"). An appropriate assessment ("AA") is required only if the Plan is likely to have significant effects on a European protected species or site. To ascertain whether or not it is necessary to undertake an assessment, a screening process is followed.

2.7 An HRA Screening was undertaken by Colchester Borough Council in February 2020. This reflected consultation with Natural England. It was of the opinion that no planning policies within the Tiptree Neighbourhood Plan except policies TIP13 (Tower End) and TIP14 (Highlands Nursery and Elms Farm), which allocate sites for the development of 625 dwellings, will lead to any adverse effects and can be screened out of further assessment. Colchester Borough Council has separately carried out an appropriate assessment of the Emerging Local Plan (Section 2). This includes a detailed in-combination assessment, which considers the in-combination effects of the Section 2 Local Plan with other neighbourhood plans and other local plans across Essex, on Habitats sites. A Statement of Common Ground signed by Colchester Borough Council and Natural England confirms that Natural England agrees with the conclusion that the Section 2 Local Plan will not lead to adverse effects on the integrity of Habitats sites either alone or in-combination."

2.8 I have some concerns about the SEA, mainly in relation to its treatment of reasonable alternatives and the selection of sites, which I come on to in my Overview section elsewhere.

European Obligations - Human Rights

2.9 I have no reason to believe that making the plan would breach or is incompatible with the European Convention on Human Rights.

Plan period

2.10 The neighbourhood plan clearly states in the Vision (section 5), on the cover and elsewhere that it covers the period to 2033, which is co-terminus with the emerging Local Plan.

Excluded development

2.11 A neighbourhood plan cannot include policies for excluded development, such as minerals and waste. I have concluded that the plan does not do so.

One plan, one designated area

2.12 A neighbourhood plan can only cover one designated neighbourhood area. In this case the Policies Map clearly shows an "indicative route corridor" (elsewhere, as the "missing-link") across land in the adjoining parish. This is replicated on Maps 8.2 and 8.3, the latter being specifically cited in Policy

TIP07. This route is described in various ways in the plan, principally as a Primary Street; the intention being to eventually link up the new “primary streets” that form part of two of the housing sites (though treated as one allocation) in the north.

- 2.13 The plan notes in the supporting text – see page 29, for example – that “... *it is not possible to safeguard the route or plan development in the section of the north of the village that lies outside the parish boundary*”. It goes on to say that: “*Ultimately it is envisaged that this road will be completed by a Messingcum-Inworth Neighbourhood Plan or through the CBC Local Plan.*” I have not, however, seen any evidence that either the neighbouring parish council or the Borough Council have any intention of doing so.
- 2.14 Later, the text explains that: “*The completion of the link is seen as a long-term project which, at best, would come forward towards the end of the NP Plan period*”. Notwithstanding the tentative nature of some of these statements, as the route is shown on the Policies Map and cited in a policy it does not meet a legal requirement as it lies in an adjacent parish.

Non-Land Use Policies

- 2.15 A neighbourhood plan can only include policies that are concerned with the use or development of land. The plan does include, at section 15, under the title Non-Policy Actions, a table of “non-land use issues to be addressed”. The supporting text explains clearly that these are actions, which cannot be resolved by the neighbourhood plan policies. I am satisfied this approach meets the Basic Conditions.

Public consultation and responses to the submitted plan (Regulation 16)

- 2.16 The process of consultation involved a wide range of media and activities, supervised by the Steering Group. These included a website, newsletters and email contacts, Open and Community Consultation Exhibitions, advertising, community events, a Questionnaire, Youth and Schools Surveys and public meetings. The Consultation Statement sets out very fully – too fully given the sheer volume of material in the appendices – all the details of the activities and processes, including the consultation with businesses, local landowners, the local planning authority and other organisations, as well as the efforts to engage hard-to-reach groups.
- 2.17 The Consultation Statement itself is a commendable document. The appendices, however, are unnecessarily long – appendix 40 alone is over 700 pages - and is, in parts, quite impenetrable: one section was simply page after page of random comments with no narrative or explanation. Nevertheless, the document sets out in detail the consultation process followed at the Regulation 14 stage and how the Steering Group responded to representations.
- 2.18 Consultation on the submission version of the neighbourhood plan started to take place on 20th April 2020 for an intended 6-week period. However,

because of the Covid-19 situation, the consultation was withdrawn by the Council due to concerns about the lawfulness of involving the physical inspection of consultation documents. Following further Guidance in May, consultation on the neighbourhood plan recommenced, for a seven-week period, from 20 June to 10 August 2020.

- 2.19 A total of 64 parties made representations to the submitted plan: a significant proportion of the submissions came from local residents, both within the parish and from those in neighbouring areas. These were often concerned with the traffic impact of the scale and location of new developments: those within the village were concerned to avoid increased congestion and other impacts (pollution, noise, effects on heritage assets, for example), while those beyond the village objected to the plan, as they were very concerned about the impact of the extra traffic on routes to the A12, particularly the use of the B1023. I found all these representations illuminating and helpful. Two adjacent parish councils and a local planning authority also raised concerns, specifically about the impact of additional traffic in their area, in the absence of a suitable link to the A12.
- 2.20 A number of statutory consultees such as Historic England, the Forestry Commission and Sport England had no specific comments; though Anglia Water did have comments, as did Natural England, who was consulted on the SEA/HRA process, with some additional comments. Essex County Council had a range of comments, although no reference was made to the new primary streets, a matter I return to later. Colchester Borough Council made no representations.
- 2.21 There were some representations concerning omission sites; and some representations from developers or landowners in support of allocated sites, often with helpful comments on aspects of the policy they supported. A number of the representations submitted by developers outlined significant concerns about the spatial strategy, the SEA process - especially the appraisal of reasonable alternatives (or lack of it) - and the site selection process, all matters I return to later.

3. The Neighbourhood Plan in its planning context

i. National policies and advice

- 3.1 The neighbourhood plan must have regard to national policies and advice, contained in Ministerial Statements and guidance issued by the Secretary of State, and contribute to the achievement of sustainable development. Paragraph 16 of the National Planning Policy Framework (the Framework) sets the scene:

“Plans should:

- a) be prepared with the objective of contributing to the achievement of sustainable development;*
- b) be prepared positively, in a way that is aspirational but deliverable;*

- c) *be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees;*
- d) *contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;*
- e) *be accessible through the use of digital tools to assist public involvement and policy presentation; and*
- f) *serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)."*

3.2 The Framework then explains, at para 29, in relation to neighbourhood planning that:

"Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in strategic policies for the area, or undermine those strategic policies."

3.3 In relation to achieving appropriate densities, the Framework includes the following, at para 122:

"Planning policies and decisions should support development that makes efficient use of land, taking into account:

- c) *the availability and capacity of infrastructure and services—both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;"*

3.4 Planning Policy Guidance includes guidance on the relationship of neighbourhood plans to emerging local plans (I've selected relevant parts to quote, given its length):

"Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its local plan (or, where applicable, a spatial development strategy is being prepared by an elected Mayor or combined authority).

.....

Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.

.....

Where a neighbourhood plan is brought forward before an up-to-date local plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:

- *the emerging neighbourhood plan*
- *the emerging local plan (or spatial development strategy)*
- *the adopted development plan*

with appropriate regard to national policy and guidance.

...

The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”

[ID:41-009-20190509]

3.5 Also, Guidance explains that:

“Plans should be prepared positively, in a way that is aspirational but deliverable. Strategic policies in the local plan or spatial development strategy should set out the contributions expected from development. This should include the levels and types of affordable housing required, along with other infrastructure. Neighbourhood plans may also contain policies on the contributions expected from development, but these and any other requirements placed on development should accord with relevant strategic policies and not undermine the deliverability of the neighbourhood plan, local plan or spatial development strategy. Further guidance on viability is available.” [Reference ID: 41-005-20190509]

3.6 The plan must give sufficient clarity to enable a policy to do the development management job it is intended to do; or to have due regard to Guidance. For example, the Guidance explains that:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.” [Ref 41-041-20140306].

3.7 There has to be appropriate evidence to support particular policies, notwithstanding it may express a strong and well-intentioned aspiration or concern of the local community. The Guidance [Ref 41-040-20160211] states:

“While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in an Order.

A local planning authority should share relevant evidence, including that gathered to support its own plan making, with a qualifying body

Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.

In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making”.

3.8 The Guidance further explains what a neighbourhood plan should address:

“A neighbourhood plan should support the delivery of strategic policies set out in the local plan or spatial development strategy and should shape and direct development that is outside of those strategic policies (as outlined in paragraph 13 of the revised National Planning Policy Framework). Within this broad context, the specific planning topics that a neighbourhood plan covers is for the local community to determine.

A neighbourhood plan should, however, contain policies for the development and use of land. This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (see section 38(6) of the Planning and Compulsory Purchase Act 2004).

Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan. (Paragraph: 004 Reference ID: 41-004-20190509. Revision date: 09 05 2019).

3.9 Also, in relation to Infrastructure considerations:

“A qualifying body may wish to consider what infrastructure needs to be provided in their neighbourhood area from the earliest stages of plan-making (as set out in paragraph 102 of the National Planning Policy Framework) alongside development such as homes, shops or offices. Infrastructure is needed to support development and ensure that a neighbourhood can grow in

a sustainable way.

The following may be important considerations for a qualifying body to consider when addressing infrastructure in a neighbourhood plan:

- *what additional infrastructure may be needed to enable development proposed in a neighbourhood plan to be delivered in a sustainable way*
- *how any additional infrastructure requirements might be delivered*
- *what impact the infrastructure requirements may have on the viability of a proposal in a draft neighbourhood plan and therefore its delivery*
- *what are the likely impacts of proposed site allocation options or policies on physical infrastructure and on the capacity of existing services, which could help shape decisions on the best site choices*

Qualifying bodies should engage infrastructure providers (eg utility companies, transport infrastructure providers and local health commissioners) in this process, advised by the local planning authority. (Paragraph: 045 Reference ID: 41-045-2019050. Revision date: 09 05 2019)

And: “What should a qualifying body do if it identifies a need for new or enhanced infrastructure?”

A qualifying body should set out and explain in their draft neighbourhood plan the prioritised infrastructure required to address the demands of the development identified in the plan”. (Paragraph: 046 Reference ID: 41-046-20140306)

- 3.10 The Basic Conditions Statement (BCS) sets out clearly how the parish considers the policies in the Neighbourhood Plan comply with the Basic Conditions and legal requirements, including EU Obligations. It explains how, in tabular form and in the narrative, the plan has regard to national policies, strategic policies of the development plan and how it contributes to sustainable development.

ii. Development Plan context

- 3.11 The neighbourhood plan must be in general conformity with the strategic policies of the development plan for the area. The development plan (excluding the County Minerals Plan) is comprised of the following:
- Colchester Core Strategy 2001-2021 (adopted 2008, with selected revisions in 2014);
 - Colchester Development Policies DPD 2001-2021 (adopted 2010 with a Tiptree Inset Proposals map); together with selected revisions in 2014);
 - Colchester Site Allocations DPD (adopted 2013); and
 - Tiptree Jam Factory DPD (adopted 2013).
- 3.12 The neighbourhood plan lists these on page 9 with little commentary or application to the strategic context of the plan; though it notes that until the

emerging plan is adopted it is “*Colchester’s Local Development Framework [which] should be consulted as a guide to future growth and development ... up to 2021.*” The plan makes it clear, on page 8, in referencing Policy SS14 of the emerging Colchester Local Plan, that it is the emerging plan “*upon which this Neighbourhood Plan is based*”.

- 3.13 The Core Strategy plans to accommodate some 1600 homes in the three main district settlements, which includes Tiptree. Tiptree, as the largest of the three (and the others being coastal) was projected to accommodate 680 new homes, including some that had already been completed or permitted (at the time). Key facilities to be delivered included a new health centre, expansion of a primary school, new sports pitches and allotments.
- 3.14 The Site Allocations DPD planned for a number of small sites (Policy SA TIP1) and highway capacity and safety improvements to match (Policy SA TIP2). Additional employment land (1.04ha) was allocated and other open space and recreation facilities planned for.
- 3.15 The settlement boundary in the 2010 Tiptree Inset Proposals Map was drawn fairly tightly around the village, while allowing space for development in the vicinity of the secondary school in the north-east and the football-training centre in the north-west. The Jam Factory’s land to the south was mostly excluded but Tiptree Heath was included (as a detached area).

iii. Emerging Local Plan

- 3.16 The emerging Local Plan 2013-2033 was submitted for examination in October 2017. The plan is in two parts: Section 1 is a strategic section that is shared with two neighbouring Essex Councils. Section 2 applies only to Colchester. Hearing sessions took place on Section 1 in January and May 2018; progress on the examination was halted after the Inspector requested further work to be undertaken. Following consultations further examination hearings took place in January 2020. The Inspector came to conclusions in July this year offering two options to the north Essex Councils; they duly accepted the removal of two new communities and main modifications are being consulted on, closing 9th October 2020.
- 3.17 Colchester BC and the other two Councils reviewed the population projections at this time. In relation to Colchester, it was concluded that there was no meaningful change in the housing targets. Examination of Section 2 of the plan can commence when Section 1 is concluded; examiners have been appointed.
- 3.18 The emerging local plan contains a specific section on Tiptree: 14.215 - 14.221. It identifies the village as a District Centre and its available services and facilities. It notes a number of constraints, which limit the amount of land available for growth: to the south, east and north-east; also the areas in Flood Zone 2 and the Tiptree Heath SSS1. It states that Tiptree will accommodate 600 new homes and notes that the neighbourhood plan will allocate final site boundaries.

- 3.19 The strategic policy for Tiptree - SS14: Tiptree - is designed to guide the neighbourhood plan. The draft policy is accompanied by the Tiptree Policies Map, which indicates “broad areas of growth”. I understand that there are errors, in that the correct Local Wildlife Sites (LWS) are not shown. The “broad areas of growth” are shown by arrows indicating that expansion of Tiptree is anticipated to the west and north-west of the village.
- 3.20 Policy SS14 explains that within the broad areas of growth the Tiptree Neighbourhood Plan will (in summary):
- I. Define the extent of a new settlement boundary;
 - II. Allocate specific sites for 600 homes;
 - III. Set associated policies for housing delivery (densities, mix, types);
 - IV. The same for delivery of infrastructure and community facilities;
 - V. Consider strategic cross-boundary issues, eg A12 junction improvements; and
 - VI. Identify other allocations in the parish, including employment and open space.
- 3.21 The policy goes on to state that development outside the boundary will not be supported. The policies map that accompanies the policy shows a new settlement boundary, which is very similar to the adopted Inset Map except for the area around the secondary school and Tiptree Heath, which are removed; while expansion land south of the Jam Factory is added.
- 3.22 Policy SS14 also states that it should be read in conjunction with generic neighbourhood plan policy SG8 and SG3 (economic growth provision). The emerging plan identifies four Local Economic Areas in Tiptree (Policy SG4); it also ranks the centre as a District Centre (SG5).
- 3.23 These requirements are broadly carried forward into the neighbourhood plan. A significant difference to the emerging local plan is that the neighbourhood plan shows some housing being developed mainly to the north (Elms Farm, part of TIP 14) where it was not anticipated; while a substantial area of growth is also shown in the north-west (Highland Nursery and Tower End), much as anticipated, planned as two sites within Policies TIP13 and TIP 14. At the same time the football-training centre is removed from within the adopted and emerging plans’ boundaries. The plan does not directly consider limb (v), which concerns “strategic cross-boundary issues, eg A12 junction improvements”, although the issue is very much at the heart of many local concerns and the subject of Policy TIP07, in particular, and non-policy actions.

4. Overview

- 4.1 The neighbourhood plan has been prepared in parallel with the emerging local plan, though now finds itself proceeding in advance of it. This does not affect its approach, rather it provides an opportunity for the local community to shape the distribution of new housing by allocating the housing sites of their choosing, based on their understanding of local needs. This kind of opportunity lies, of course, at the heart of neighbourhood planning; E.g.

Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan [Framework para 29].

- 4.2 The neighbourhood plan does accommodate the strategic objective of 600 homes and is quite clear about where they are to be located – to the north and north-west of the village - so that these developments, alongside existing areas, can access main routes (to the A12 and nearby stations, for example) and so minimise the impacts of traffic passing through the village centre and key pinch-points. This is the plan's driving theme and shapes the spatial strategy of the neighbourhood plan. The settlement boundary is then drawn around the village and these allocations.
- 4.3 The key question is whether the process of selecting the preferred spatial strategy - and the option appraisals and site selection process, including the environmental assessment process that goes with it - supports the plan-makers approach. I am not convinced it does. The plan itself offers no convincing (certainly not robust and proportionate) evidence – or a cross-reference to the any source – as to why the plan adopts the spatial strategy it does. It is not to be found in section 6, Spatial Strategy. I cannot see within the submitted neighbourhood plan *itself* why the spatial strategy diverges, albeit to some degree, from the emerging local plan's "broad areas of growth"; though the LWS error is part of the explanation and some of the answers are to be found in Section 12. Otherwise, the reader has to scour the pages of the voluminous Consultation Statement and its appendices, as well as the SEA, for the answers.
- 4.4 The neighbourhood plan's Objective 12 [To focus development in the north and west of the village where access to main routes will minimise the impacts on the village centre] and its twin Objective 14, which drive the preferred option and site allocations, are primarily derived from the consultation process - see second para on page 28 (in section 8, Traffic and Movement), for example. It is based on a chosen solution to local concerns about congestion on various routes and through certain junctions in the village centre, especially through Church Road.
- 4.5 Given the pivotal nature of these objectives, it would be necessary, in my view, for them to be underpinned by proportionate and robust evidence, such as a technical appraisal of current conditions and an assessment of the impact of different spatial options on the roads and junctions in question. The early (Regulation 14 stage) advice from County Highways was to carry out modeling to test the proposed solution. But no such exercise was carried out, for reasons that become clear later; and there is no empirical evidence available to support the preferred approach – and the new routes in particular - being necessary.
- 4.6 The Strategic Environmental Assessment (SEA) has to consider reasonable alternatives. On page 30 it explains, under the heading Strategic Alternatives, that: "*Alternatives that conflict with the plan objectives or are unlikely to be*

delivered are not reasonable alternatives.” Thus, any option in opposition to Objectives 12/14, or indeed any other objective, seems to be set up to fail. In relation to the plan’s first policy, Policy TIP01 – the Spatial Strategy section but in practice only dealing with the new settlement boundary - the SEA concludes that (top of page 31) that: *“There are no reasonable alternatives as this policy looks at the principles of promoting sustainable development and meeting the needs of the parish within the plan period, including meeting the plan period objective: to define clearly a revised settlement boundary for Tiptree”*. This is said despite a different option being presented in the emerging local plan – notwithstanding the LWS errors - on which the neighbourhood plan is based.

- 4.7 The section of the SEA, which deals with the main site allocations – TIP13 and TIP14, reaches a similar conclusion (see bottom of page 34): *“There are no reasonable alternatives as this policy looks at the principles of promoting sustainable development and meeting plan objectives: to provide access routes to new estates that avoids congestion, and to avoid increased congestion on existing roads and junctions in and around Tiptree by steering development to the north and west of the village.”* Again, this is despite the emerging local plan offering a different and – notwithstanding the LWS errors – a potentially reasonable alternative.
- 4.8 The SEA explains how the 71 sites from the Tiptree SHLAA were processed (page 48). The text explains (second para) that: *“The scores in the appraisals in appendix 3 show little difference between sites in terms of their impact on SEA objectives”*. It goes on to explain (penultimate sentence of third para) that: *“There was an expressed desire by the community to site development to the north and north west to give easy access to the A12 and to avoid increasing traffic on Church Road.”* The SEA in the following para (top of page 49) explains that: *“It is the role of the plan-maker to come to a view as to the balance between the effects identified and decide which sites to allocate in the neighbourhood plan, taking into account the findings of the SEA and other evidence.”* The sites selected are therefore those that primarily meet Objectives 12/14, as the scores of individual sites are said to show little difference. It is not clear what the “other evidence” might be.
- 4.9 A number of objectors took issue with the scoring process. They criticised the scoring for being too simplistic; also they pointed out inaccuracies (Kler Group for example), inconsistencies with both available evidence (for example, in a planning application, where issues had been resolved) or where relevant features, such as a nearby heritage asset had not been sufficiently taken into account. I share some of these concerns, though I do not regard them as undermining the SEA process. It was also claimed that there had been no consultation on the SEA itself. This was not the case.
- 4.10 The early choice of sites in the north and west came together with the desire for a series of link roads to be provided across the northern area, as part of those sites. But to join them up a “missing link” was included on land between two of the sites, beyond the boundary of the designated area, in another parish and so outside the scope, legally, of this neighbourhood plan.

5. Conclusions on core issues

- 5.1 It is entirely within the spirit and scope of neighbourhood planning for local plan-makers to reach their own conclusions as to where new development should be best located, within the strategic context, notwithstanding an emerging local plan taking, to a degree, a different spatial approach. But it has to be supported by the SEA process, as well as robust and proportionate evidence. While consultation responses are an important element in shaping the spatial strategy I am not persuaded they should have been so determinative in this case. The SEA process should not be a slave to the plan-maker's objectives (and especially 12 and 14) where there are reasonable alternatives available.
- 5.2 Overall, I find the dominating reliance on community objectives within the SEA process, without proportionate and robust evidence¹ 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.
- 5.3 In the case, as here, where a neighbourhood plan is being brought forward before an up-to-date local plan is in place, the Guidance advises the qualifying body and the local planning authority (LPA) to discuss and aim to agree the relationship between policies in both plans, as it is important to minimise any conflicts between policies in both – see my quotes at para 3.4. In the absence of any representation from the local planning authority on the neighbourhood plan at Regulation 16 stage it is not possible for me to understand the degree to which the LPA has agreed the approach taken in the neighbourhood plan, for example, whether the “broad areas of growth” are considered strategic. However, in their Reg 14 representations, the Borough Council did not take issue with the spatial strategy or the settlement boundary and I conclude that the LPA considers the neighbourhood plan to broadly conform with strategic policy.
- 5.4 I am **recommending** that the plan does not proceed to referendum. However, it may help the parish council's plan-makers and the Borough Council if I consider, albeit more briefly than I would otherwise, whether the policies in the submitted plan meet the Basic Conditions, to assist in undertaking a review of the work undertaken to date and the preparation of a new plan.

6. Spatial strategy

- 6.1 The spatial strategy section does not deal with the spatial strategy. It is not explained in this section; nor are the six objectives noted necessarily the ones that seem to drive the object of Policy **TIP01**: Tiptree Settlement Boundaries. The main place one finds the essence of the plan's spatial strategy is on page

¹ That is, provided to me as part of the material submitted for examination, as listed in my para 1.9. It is not for me to go searching for other material in order to identify the relevant evidence myself. That it may exist on the parish or borough council website is not sufficient to enable me to make the link between a policy or proposal and its evidential support.

35, in section 12 (Site Allocations). This supporting text would more helpfully be transferred to introduce the strategy in section 6.

- 6.2 The supporting text in section 12 explains the need for a new settlement boundary and outlines the site assessment process, such as it was. The text explains (penultimate sentence, second para, page 35) that: *“As a result of the SHLAA process [undertaken in 2017] 42 sites around the entire Neighbourhood plan area were taken forward for further consideration. The final selection of sites has been informed by the SHLAA process alongside vision and objectives of the Neighbourhood Plan which have been derived from the community consultation exercise.”* The third paragraph in the supporting text (p 35) goes on to explain that two areas were selected for development; later [fourth para] the siting in the north was explained to be driven by the ability to access major routes, particularly the A12 without exacerbating traffic conditions on Church Road.
- 6.3 This is supported by a parish council document – Tiptree Site Selection Process - annexed to the representations by Bloor Homes. This document was not submitted as part of the Reg 16 submission material – and see footnote 1. This [undated] document outlines the site selection process that took place, in around 2017, that *“...led to the final selection of development sites to be put forward in the Neighbourhood Plan.”* This document explains (second para, page 2) that: *“At a meeting of the NP steering group together with the “Routes Group” and the “SHLAA Group” in March 2018 the NP objective to build in the north and north-west was considered together the availability of sites and the possibility of improving traffic flow around the village. As a consequence the embryonic NP “emerged””.*
- 6.4 A number of points emerge from this: i. that the choice of locating new development in the north and north-west was made early in the plan’s progress, around late 2017 and early 2018; ii, that the SHLAA and consultation processes were the main influences; and iii, that the SEA was not part of the process at that stage – that would come later. Bloor Homes made the point that: *“Both Heard and Stonegate [cases] confirm the need to avoid the premature fixing of a particular strategy without proper consideration of alternatives”* (para 3.14). Gittins, in his representations, points out that *“... a principal plan objective emerged at an early stage ...”*. I agree with these observations and have concluded that it is more than likely that there has been a premature fixing of the spatial strategy.
- 6.5 Policy **TIP01** defines the new settlement boundary, as shown on the Tiptree Policies Map. Given my comments earlier on the spatial strategy, the effect is that the settlement boundary is the outcome of the strategy rather than being part of shaping it: It is simply the boundary around the village, taking into account the chosen site allocations. There is no specific appraisal identified to justify the boundary. Leaving aside the omission of Tiptree Heath – which is not physically part of the village and which the emerging local plan omits too - there is one exception: the extension in the south on Jam Factory land.
- 6.6 Colchester Football Club pointed out that the boundary *“... should not be used*

to intentionally “de-allocate” exiting local plan designations, or to seek to reverse planning policies and proposals which are in compliance with national and local plan policy, for sites such as Florence Park...”. I disagree; it is well within the remit of a neighbourhood plan to review the boundary and, in this case, the emerging local plan specifically tasks the neighbourhood plan (at SS14 i) with defining it.

- 6.7 The policy text sets out the local exceptions to development beyond the boundary. These will need to be justified; Essex County points out that the list of developments it refers to should be within the settlement boundary not outside it. An alternative approach, which would also avoid duplication, is to rely on the local plan’s countryside policies.
- 6.8 The boundary itself needs to be derived from a clear spatial strategy and based on sufficiently robust spatial option appraisals, including consideration of reasonable alternatives, together with appropriate site assessments, to meet the Basic Conditions. The County Council (as Minerals and Waste Planning Authority) suggests that the plan should point out that any limits placed on development through the policy cannot act to constrain minerals and/or waste development. And, as Lead Local Flood Authority (LLFA) they noted that the plan “... *contains limited information about flood risk*”. They advise the inclusion of some text (see p 5 of their reps) which I would support, to meet the Basic Conditions.
- 6.9 The spatial strategy – and thus the future settlement boundary – in any new neighbourhood plan will also need to take into account the Barbrook Lane scheme, now approved on appeal; that was a contentious development. In framing a new spatial strategy it is clear that the strategic housing target of 600 is unaffected; the development simply reduces the total by up to 200 homes.

7. Homes and Housing

- 7.1 The first policy – **TIP02**: Good Quality Design - seeks to secure high standards of design and for new development to reflect the village character and feel. It is reasonably well argued and incorporates outcomes from the local consultation process. There was local support; Maldon DC also supported these policies.
- 7.2 Policy **TIP03**: Residential car parking is designed to ensure that sufficient off-road parking is available within new developments; and mainly on drives, parking courts or car ports, in preference to garages, with the aim of maintaining an orderly streetscape. It seeks to exceed the standards for larger homes, which results in higher on-site provision. The basis for this approach was a higher percentage of cars per dwelling.
- 7.3 A number of parties objected to this departure – though not the County Highway Authority - from Essex Parking Standards, which are designed to promote sustainable development. To go against these, simply on the basis of higher local car ownership, would not promote sustainable development and

not meet the Basic Conditions.

- 7.4 The next policy – **TIP04**: Building for Life - seeks to promote buildings for life in major developments. While referenced in para 15.54 of the emerging Local Plan, there is no corresponding policy.
- 7.5 The final policy in this section – **TIP05**: Dwelling Mix – seeks to deal with a historic over-provision of larger dwellings and to meet identified future needs. The plan acknowledges that this policy will be superseded, by Policy DM10 in the emerging Local Plan.
- 7.6 This section of the neighbourhood plan ends with a few paragraphs on Affordable Housing but no policy. This reads more like advocacy and I would recommend that it be moved to section 15.

8. Traffic and Movement

- 8.1 This section gets to the heart of the plan, with two policies: one dealing with sustainable movement (and routes) while the other with traffic mitigation and introduces the new primary streets. A range of objectives are cited, including Objective 14, which is almost identical to Objective 12, in focusing development in the north and west of the village to avoid increased congestion on existing roads and junctions.
- 8.2 The first part of this section, under the heading of Sustainable Movement, seeks to balance the needs of those accessing services in the village with the issue of provision of improved access to the A12 and improved links to neighbouring towns and railway stations. The text references Map 8.1 as showing the *“main pedestrian routes and destinations which new developments would be expected to link with”* but it doesn’t actually do this. It would be very helpful for the map to do this so that the context for both policies is clear.
- 8.3 Policy **TIP06**: Cycling, walking and disability routes is in five parts, A-E. Each deals with issues that have arisen from the public consultation process. County Highways, in relation to A, point out they generally favour shared footways/cycleways. More generally, they recommend the plan includes more information on Travel Planning. Maldon Council supports the policy.
- 8.4 The second part of this section deals with Vehicular Traffic Movement. A major concern of the plan is congestion in the village. The plan explains that *“...to avoid congestion it is necessary to ensure the smooth flow of traffic along the main roads passing through the village and, where possible, to provide alternative routes to reduce traffic using any one road. For these reasons the plan seeks to avoid increasing traffic flow on the B1022 and B1023, especially through Church Road.”* The next paragraph explains: *“In response to community consultation this plan has placed future development in the north and north-west of the village so that future residents in these areas can access the A12 and major routes without passing through Church Road.”* That paragraph goes on to explain the alternative links [elsewhere

referred to as primary streets] to achieve this, illustrated on Map 8.2, which shows the three main housing sites, their capacities and the sections of link roads that each is expected to accommodate. Indicative new junctions with the road network are shown.

- 8.5 Neighbouring parishes took issue with this approach, as did quite a number of residents to the north of Tiptree, making the point that concentrating development on the selected sites would put intolerable pressure on the B1023, which is inadequately configured to accommodate it. Feering Parish Council regards it as “overstretched” with congestion problems that would be further compounded by other developments. They concluded by saying they *“... consider that there has been a lack of engagement with Feering Parish Council, particularly with regards to transport ...”*.
- 8.6 Messing-cum-Inworth Parish Council makes much the same point. They say that *“... using the B1023 as the main access route for the additional homes planned for Tiptree is flawed, as the road, due to its size and nature is not fit for purpose nor can it be improved to be so.”* They set out their own aims for Inworth *“... to ease the dangerous traffic flow already taking place...”*. They request a meeting *“... to see if common ground can be found on this important matter.”* It is concerning that, by the Reg 16 stage, neighbouring parish councils should feel such a lack of engagement. Maldon DC also objected to the scale of additional housing, which *“ ... will impact on traffic flows, through and around the village, especially the routes to the A12.”* All these concerns were echoed by many residents from the neighbouring areas.
- 8.7 The plan’s supporting text explains (page 29) that *“... it is considered prudent to continue the above mentioned “alternative route” across north of the village...”*. The route, across land outside the parish and designated area, is shown dotted on Maps 8.2 and 8.3. I have dealt with this particular point earlier, in my Overview, in that a neighbourhood plan cannot lawfully include proposals beyond the designated area.
- 8.8 In the Overview section I referred to issues with the “primary street”. I must say I find County Highway’s contribution on this topic puzzling. It seems that at a meeting with the parish before the Regulation 14 stage, the County was supportive of the plan’s approach; then in response to the Reg 14 version they effectively objected, suggesting modeling was required to support the routes; then later, at a further meeting, they decided that they were content with the approach being taken in the plan, provided Transport Assessments were carried out at the planning application stage to justify it. It is this view that is reproduced in the penultimate paragraph on page 35 (dealing with the Site Allocations). By Regulation 16 they had no comments at all. The requirement to submit Transport Assessments found its way into limb C of Policy TIP12: Comprehensive Development.
- 8.9 The parish council took the understandable view that if the County was leaving justification of their approach – and, by implication, the routes shown on the Maps - to the planning application stage they did not need to do any more work on it. But the Framework makes it clear that it is for the plan-

makers to support their proposals with robust and proportionate evidence, notwithstanding the County's change of mind. Even one of the promoters of an allocated site – Marden Homes, supporting TIP13 – considered the plan's approach to be outside the scope of a Transport Assessment. They commented (par 4.8): *"In safeguarding land for a link road, the NP should be supported by sufficient evidence to demonstrate that this is necessary and will alleviate existing congestion."*

- 8.10 And, at para 4.12, Marden concluded: *"We consider that these are matters that should already have been addressed within the NP and that they are not for individual planning applications to consider."* Bloor Homes (para 3.23 of their reps,) concluded that *"... there is no evidence to suggest that the proposed link road is needed, would be of benefit, is deliverable, or represents the optimum route for a new link road."* I wholly agree with the points made by Bloor and Marden. Consequently, Policy **TIP07** (I come to TIP12 later), fails the Basic Conditions.

9. Tiptree Village Centre

- 9.1 The plan seeks to support the attractiveness of the village centre, to see the variety of shops increase, also for eating and drinking, while encouraging additional car parking for visitors. Two policies are included to achieve this: **TIP08**, concerning existing businesses; and **TIP09**, dealing with new developments. The uses listed need to be evidenced.

10. Commercial Activity

- 10.1 This section, comprising one policy, seeks to protect existing employment land and to provide additional employment land in line with Policy SG4 of the emerging Local Plan. Policy **TIP10**: Business Development effectively allocates 1.5ha of employment land as part of one of the site allocations TIP14. It does not deal with protecting existing employment land, as TIP08 covers businesses in the village centre. It is presumed that the emerging Local Plan covers the four designated Local Employment Areas in the neighbourhood plan area.
- 10.2 The policy itself will require review: The Use Classes Order has just undergone significant change; and the requirement for 0.6ha of the allocation needs to be supported by sufficient evidence. It would be better for this section to focus on employment land like the local plan.

11. Community Infrastructure

- 11.1 The section on community infrastructure seeks to protect a range of facilities as well as plan for the integration of three needs, identified in a Leisure and Play Facilities' Audit, two of which are picked up in the policy (a LEAP and a MUGA), which are then identified to be provided as part of two site allocations (one each). The supporting text identifies nine community projects the parish council would like to see, seven of which find their way into the policy. These lists have arisen through the community questionnaire and are defined as

needs; though in the supporting text they are described as “aspirations”.

- 11.2 The policy – **TIP11: Planning Obligations** - only deals with new provision, not protection. It encompasses a mix of evidenced needs and un-evidenced aspirations, the latter without explaining the disparity between the lists. It is also not clear why play facilities are to be provided as part of the sites identified; no evidence is provided.
- 11.3 To meet the Basic Conditions this policy will need a complete overhaul. The projects need to be supported by proportionate and robust evidence, as do the locations of the new play facilities. The relevant site allocations, which include them, then need to be deliverable.

12. Site Allocations

- 12.1 This section is not supported by any Objectives; though, given the central role these policies play in the plan, in one sense, all or most of the objectives apply. The supporting text, as I demonstrated in relation to section 6, is mainly concerned with the spatial strategy and the rationale for the allocated sites; I have dealt with the “missing link” under TIP07, which it also explains. I won’t repeat all that here. The section has three policies; TIP12, which seeks to secure a comprehensive approach to the development of the site allocations; while TIP13 and TIP14 deal with the site allocations themselves (with the latter covering two detached sites on the north, linked by a “primary street”).
- 12.2 Between them the three sites have the capacity to deliver at least the required 600 homes. The supporting text explains (bottom of page 35) that this scale is “... *sufficient to ensure the viability of the planning gains required of developers* ...”. From Map 8.2 they are planned to deliver some 625 homes, based on the following capacities:
- TIP13: Tower End – 175 homes, in two parts (25 and 150 homes);
 - TIP14: Highland Nursery – 225 homes
 - TIP14: Elm Farm – 225 homes
- 12.3 Policy **TIP12: Comprehensive Development** is in three parts, A-C. Part A requires development on the allocated sites to be supported by overarching masterplans. Part B, that these will set out general design principles, demonstrating the neighbourhood plan’s aspirations; Part C requires each planning application to be accompanied by a Transport Assessment, as explained earlier in the report.
- 12.4 The only rationale for linking three different sites, in different ownerships, is the desired road links. Although the County Highway Authority point out that these allocations “... *represent a rare opportunity to the parish council to secure the required bus service*...”. This is a point well made and complements their comments at Reg 14 stage, which encourage the role of sustainable travel.
- 12.5 As the neighbourhood plan cannot involve land outside its designated area,

any links will have to be related to sites within the plan area; and the work needs to be done to show they are necessary. If that work shows that there are routes through or between sites - that need to be safeguarded - then the policy can simply secure that. I see no justification for more than that, as there is no other overarching connection between the sites, say in landscape, design or other terms, that cannot be covered through individual allocations. Marden Homes, in supporting an allocation, made the point that, as different landowners are involved in all three sites, the policy would place an unreasonable burden on the process and it was unnecessary anyway. I agree.

- 12.6 Policy **TIP13**: Tower End allocates the site for 175 homes and sets out nine requirements, all of which need to be met. Given the need for a re-think of the whole plan, these requirements will also necessarily require review as to their necessity and viability. At the Reg 14 strategy the Borough Council took the view that this policy was in conflict with both the adopted Core Strategy and emerging Local plan as part of the allocation is for a Gypsy & Traveller (SAH2) and as Local Economic Area. This conflict is resolved in the Tower End text and the policy in sub-para vii.
- 12.7 Policy **TIP14**: Highland Nursery and Elms Farm combines two sites into a single site allocation. It is in three parts: A deals with criteria that both sites need to meet; B and C cover the two sites separately. Each of B and C include a range of detailed site requirements to be met. As the only connection is the “missing link” there is no need to combine the sites into one policy. Again, given the need for a re-think of the whole plan, these site allocations and their requirements will also necessarily require review as to their necessity and viability, which needs to be evidenced, notwithstanding promoter support.

13 Countryside and Green Spaces

- 13.1 There are two policies in this section; the first, TIP15, covers the title of the policy and the other, TIP16, recreational disturbance. The supporting text to Policy TIP15 identifies three broad groups of open spaces: those owned or managed by the parish Council (five); the designated Local Wildlife Sites in the plan area (nine in all, which are classified by the Borough Council) and Tiptree Heath. The supporting text explains that the green spaces and designated wildlife sites in Tiptree are shown on Map 13.1, though the source of the data is not given. This shows three groups: a) Green spaces with public access – including Tiptree Heath plus a number of others, at quite a small scale; b) Local Wildlife Sites; and c) Private Green Space – only the football training ground is shown.
- 13.2 These spaces are covered by the protection given by Policy **TIP15**; the policy is supported by the County Council. However, to be effective, there needs to be evidence to support the designation of each category of site; and the smaller sites would benefit from larger scale mapping. The policy is in four parts; part D, however, seeks to ensure that new public green spaces created as part of development be transferred to the Parish Council or if that is not

possible them to an alternative body. This is not a land use policy and so I would recommend it be transferred to section 15, as something the parish council advocates.

13.3 The County Council suggests that the plan takes into consideration a policy to ensure connectivity of all green infrastructure (see pages 6/7 of their reps). They also point out that TIP13 and 14 should seek biodiversity gains _ I presume more that at 13 iv and 14 iii - as required by the Framework at para 175. I agree, this would meet the Basic conditions.

13.4 Tiptree is within the Essex Coast Recreational disturbance Avoidance and Mitigation Area (RAMS), which is a strategic solution to protect the Essex coast from the recreational pressures of a growing population, especially on ground nesting birds. Policy **TIP16** supports the strategic policy. Natural England comments that, to comply with the Framework at paras 170 and 174, the plan needs to take on board the hierarchy of designated sites and suggests appropriate text. Again, I agree; it would meet the Basic Conditions.

14 The Historic Environment

14.1 There is only one policy. It is not necessary as it duplicates the legislation, the Framework and development plan policy.

15. Non-Policy Actions

15.1 The neighbourhood plan includes non-land use policy matters that the parish council wishes to see addressed. Their inclusion in the manner presented complies with the Guidance on this.

16. Other matters

16.1 The plan needs to function as an easily referenceable development plan document, to meet the Basic Conditions. As such, I recommend that each paragraph within each chapter follows a clear and consistent numbering order (such as 1. Introduction; 1.1 first paragraph etc). Sub-headings don't normally need numbering unless it's appropriate to do so. It is not necessary to number the contents page. Mapping of smaller sites needs to be accommodated for legibility, at a larger scale, possibly in an appendix, and suitably cross-referenced in the policy and supporting text, where appropriate.

17. Referendum Area

17.1 The Planning Practice Guidance on the Independent Examination explains:

"It may be appropriate to extend the referendum area beyond the neighbourhood area, for example where the scale or nature of the proposals in the draft neighbourhood plan or Order are such that they will have a substantial, direct and demonstrable impact beyond the neighbourhood area."
Reference: 41-059-20140306

- 17.2 There are formal development site allocations in this neighbourhood plan on the border with the adjoining parish. The plan also has a proposed route shown across land in that parish – the “missing-link”. In my view the nature and scale of what is proposed in the plan would indeed *have a substantial, direct and demonstrable impact beyond the neighbourhood area*. I would have recommended, if the plan were proceeding to referendum, that the Referendum Area be extended beyond the designated neighbourhood area to include all or part of Messing-cum-Inworth parish.

18. Conclusions and recommendations

- 18.1 Overall, from my examination of the submitted Tiptree Neighbourhood Plan, together with the submitted supporting documents, including having regard to all the representations made, I have concluded that the neighborhood plan will not meet the Basic Conditions nor the legal requirements. I have set out my findings, drawn from my considerations in my report, in the Summary on page 3.
- 18.2 In conclusion, I **recommend** that the Tiptree Neighbourhood Plan should NOT proceed to referendum.
- 18.3 Finally, my thanks to both the Borough Council and the Parish Council for their assistance in undertaking the examination.

John Parmiter FRICS MRTPI

9 October 2020

Independent Examiner

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