

190647 - Land adjacent the Gables, Kelvedon Road, Tiptree
Policy Update - 4 June 2020

Introduction

Following the policy response dated 28 June 2019, conversations have been ongoing between the applicant and planning officers. There has also been further progression in relation to both the Emerging Local Plan and Emerging Tiptree Neighbourhood Plan. As a result, it is considered necessary to update the planning policy response accordingly.

The position regarding the Adopted Local Plan remains unchanged as the proposal is outside of the settlement boundary. Reference to the original policy response is required in this regard.

The position regarding the Emerging Local Plan and Emerging Tiptree Neighbourhood Plan requires further consideration and is updated below.

Emerging Local Plan Update

The North Essex Authorities (NEAs) received a letter from the Section 1 Inspector on 15 May 2020. This is available on the [examination website](#). The Planning Inspector agreed that the Garden Communities could be supported and the policies in the plan set high standards for delivery and infrastructure but said that the Colchester/Braintree Borders and West of Braintree Garden Community proposals are not deliverable. In his opinion the proposed Colchester/Braintree Borders Garden Community would not achieve a viable land price, and that for the proposed West of Braintree Garden Community financial viability and sustainable access cannot be achieved. The Inspector has said that the Local Plan has met the legal requirements including the Duty to Co-operate and that the housing targets for each district are sound. The OAN figure of 920 homes per annum for Colchester remains to be endorsed as per the Inspectors letter of 28 June 2018. The NEAs will now decide whether to modify the plan as the Inspector has suggested – and proceed to a main modifications consultation or alternatively withdraw the plan completely. Committees are currently being scheduled by each authority in order for the Inspectors letter to be considered and a decision made accordingly. These will occur after the schedule of Modifications have been received from the Inspector (which have already been formally requested from the Inspector by the NEAs). It is likely that this will enable Colchester's Local Plan Committee to be held remotely during July 2020 in line with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

It is considered by the Council that this update from the Inspector in relation to housing requirements provides clarity in this respect and confirms that despite the findings of the Inspector, additional unplanned sites outside of Emerging Allocations in Section 2 or from Neighbourhood Plans (in compliance with Section 2 Policies) are not required at this time.

Tiptree Neighbourhood Plan Update

The Tiptree Neighbourhood Plan was submitted to the Council on 27 March 2020. The Council commenced the Regulation 16 Consultation which was intended to run for a six week period from 20 April to 1 June 2020. On 30 April 2020 this consultation was withdrawn following consideration of concerns raised on behalf of Bloor Homes regarding the lawfulness of undertaking the consultation as described, during the current restriction placed on the public as a result of the Coronavirus pandemic.

The Council are working with the Qualifying Body to identify any way forward that may be available to enable the Regulation 16 Publication consultation to recommence in compliance of the relevant regulations and guidance in the light of the particular COVID-19 circumstances at this time, and as they change during the coming weeks and in response to the recently updated (13 May 2020) PPG for Neighbourhood Planning. It would therefore be advantageous to the applicant to remain up to date with this progress.

It is noted that this site continues to be shown as part of an allocation within the Regulation 16 iteration of the Tiptree Neighbourhood Plan for development of approximately 175 dwellings, as per policy TIP13 - Tower End.

It is also noted that the applicant has outlined an intention to raise concerns regarding deliverability of key objectives, feasibility and specific policy requirements within the Tiptree Neighbourhood Plan which could have '*significant implications for the delivery of a viable housing development on the land put forward for residential use*'. However, the allocation of land in this location will continue to be supported by the applicant.

Any issues of policy requirements and deliverability of key objectives of the Tiptree Neighbourhood Plan will be addressed through the neighbourhood plan examination, and it is considered by the Council that this follows the plan-led approach outlined in the NPPF. In order to meet the requirements of paragraph 48 of the NPPF to inform the weight to be given to a Neighbourhood Plan in determining an application within an active neighbourhood plan area, the Regulation 16 consultation is required to be undertaken to enable the consideration of consultation responses and the extent to which these can be resolved via the planning application.

As outlined above, the Tiptree Neighbourhood Plan is subject to a unique situation given the Regulation 16 consultation having been withdrawn on 30 April 2020 due to issues surrounding the Coronavirus pandemic. Regarding the ongoing Maldon Road, Tiptree inquiry (planning application reference 192025 and APP/A1530/W/20/3248038); the Council are of the view that a pragmatic approach to the weight given to the Tiptree Neighbourhood Plan should be taken during this time. Under normal circumstances, the Regulation 16 consultation would have closed on 1 June 2020. In line with NPPF paragraph 48, this would have enabled the Council to determine the weight to be given to the Tiptree Neighbourhood Plan. As such, it is the Council's view that significant weight should be given to the Tiptree Neighbourhood Plan, to reflect this unique situation and

recognise that the plan remains subject to examination and referendum when full weight would therefore be given.

Colchester Emerging Local Plan and Emerging Tiptree Neighbourhood Plan

It is acknowledged that the examination process of the Emerging Local Plan is complex including a two stage process comprising a Section 1 joint examination with Braintree and Tendring District Councils, to be followed by individual separate examinations of the Section 2 Local Plans.

In some cases, applications for emerging allocations within the Section 2 Local Plan have been considered and granted planning permission, however this has been and will continue to be on a case by case basis. It should be noted that no allocation within an Emerging Neighbourhood Plan has been granted planning permission, prior to the receipt of the Examiners Report for the relevant neighbourhood plan.

Given the high level of public engagement with the Tiptree Neighbourhood Plan throughout the plan making process to date, it is likely there will be a high volume of regulation 16 representations. Under normal circumstances, if the Regulation 16 consultation had occurred as scheduled, it is likely the Policy Team would maintain the view that the application is considered premature to the neighbourhood plan until issue of the Examiners Report, as per the Council's established approach.

Due to the unprecedented circumstances as a result of the Covid-19 pandemic, the Council consider that Tiptree Neighbourhood Plan is to be given significant weight. However, it is necessary to consider the compliance of this proposal with the policies contained within the plan and to not preempt the neighbourhood examination.

Employment Land

The Site Allocations DPD (adopted 2010) and Emerging Local Plan (Publication Draft June 2017) allocate Tower Business Park as a Local Employment Zone and Local Economic Area respectively. Both allocations cover the same area which totals 5ha, approximately 2ha of the allocation remains undeveloped.

The Tiptree Neighbourhood Plan Policy TIP13 proposes for approximately 1.5ha of this undeveloped employment land to be developed for housing. Policy TIP14 - Highlands Nursery & Elms Farm, allocates an area to the western portion of the allocation for 1.5ha of Class B1 business use, including 0.6ha of serviced land available upon first occupation by existing commercial trades within Tiptree.

Following representations made during the Regulation 14 consultation of the Tiptree Neighbourhood Plan, the LPA have been working with the Qualifying Body to address concerns raised regarding employment allocations within the neighbourhood plan.

The Council do not object in principle to the allocation of 1.5ha of employment land at the Highland Nursey and Elm Farm allocation (TIP14) due to the level of constraints of the existing undeveloped portion of the Tower Business Park allocation (TIP13). It is considered that this conflict with the Adopted Local Plan and Emerging Local Plan has been resolved through additional evidence and updates to policies TIP13 and TIP14 of the Tiptree Neighbourhood Plan as outlined in the Regulation 16 iteration.

The process for this to be tested and considered fully is through the Tiptree Neighbourhood Plan examination. It is not considered appropriate for this to be assumed to be an acceptable approach, having not been subject to further comment during the Regulation 16 consultation and by the Neighbourhood Plan Examiner. Therefore, the application is considered to pre-empt the outcome of the neighbourhood plan process.

Gypsy and Traveller Accommodation

The Site Allocations DPD (Adopted 2010) allocates 5 Gypsy and Traveller Accommodation sites at Kelvedon Road, Tiptree. These are:

- Colt Farm - 2 pitches;
- Emmanuel - 1 pitch;
- The Paddocks - 2 pitches;
- Pony Farm - 1 pitch; and
- Land adjacent Gwynlian - 2 pitches.

The Pony Farm site for one pitch is located within the Tower End Allocation of the Tiptree Neighbourhood Plan (TIP13).

Following representations made during the Regulation 14 consultation of the Tiptree Neighbourhood Plan, the LPA have been working with the Qualifying Body to address concerns raised regarding Gypsy and Traveller accommodation at Pony Farm within the neighbourhood plan.

An additional criterion has been added to the Regulation 16 iteration of Policy TIP13 which reads as:

vii) The provision of land for 1 Gypsy and Traveller pitch in an accessible location on site. Provision off-site will be appropriate on a suitable alternative site in Tiptree or, if no such sites are available, then on a suitable alternative site elsewhere in the Borough.

In any event, the Policy Team would not support the loss of the Pony Farm Gypsy and Traveller site.

In accordance with the additional criteria to Policy TIP13, it is necessary to demonstrate that the pitch cannot be retained on site in the first instance.

If it can be demonstrated not possible to retain the pitch onsite, from the information currently provided, the Policy Team would not object to the relocation of the Pony Farm site to The Paddocks, in principle. However, it must be ensured that there is sufficient space, access and amenities for this additional pitch to be accommodated at The Paddocks. It will also be necessary to provide Land Registry details to confirm land ownership as indicated. Sufficient evidence must be provided to demonstrate that the pitch is not being lost, as this would result in an unmet need and would not be consistent with the NPPF.

Similar to the employment land issue, the process for this principle to be tested and considered fully is through the Tiptree Neighbourhood Plan examination. It is not considered appropriate for this to be assumed to be an acceptable approach, having not been subject to further comment during the Regulation 16 consultation and by the Neighbourhood Plan Examiner. Therefore, the application is considered to pre-empt the outcome of the neighbourhood plan process.

Layout and Design

It is noted that there were concerns regarding specific policies in relation to design and infrastructure delivery raised during the Regulation 14 Consultation of the Tiptree Neighbourhood Plan. This has led to a number of policy changes being made through the Neighbourhood Plan as presented in the Regulation 16 iteration.

As the applicant has outlined potential concerns regarding the deliverability and wider connectivity concerns in complying with the emerging neighbourhood plan policies, this clearly demonstrates the premature nature of this application. This is further demonstrated through the applicant's indication that they are likely to raise objection to policies during the Regulation 16 consultation, despite continuing to demonstrate support for the Tower End allocation. The policies of the neighbourhood plan remain subject to examination and have the potential to be modified as the Examiner sees fit in order for the neighbourhood plan to be compliant with the Basic Conditions.

In order for design and connectivity issues arising from policies in the Tiptree Neighbourhood Plan to be fully addressed through this application for an emerging allocation; the Policy Team consider it not appropriate to confirm support for this application without having regard to the finalised policies of the Tiptree Neighbourhood Plan. The applicant has agreed to undertake a full new layout for the proposal, following conversations with the Council. This further justifies the view that this application is currently premature to the Neighbourhood Plan.

Conclusion and Planning Balance

The Tiptree Neighbourhood Plan has been submitted to the Council on 27 March 2020. Due to issues arising around the lawfulness of undertaking the consultation as described during the current restriction placed on the public as a result of the Coronavirus pandemic; the Regulation 16 consultation (20 April to 1 June 2020), was withdrawn on 30 April 2020. The Council are currently working with the Qualifying Body in order to identify any ways in which the consultation can be recommenced during this time in coordination with all relevant regulations and coronavirus government advice.

Although an approach has been agreed by the LPA and Qualifying Body to address the employment allocation and Gypsy and Traveller accommodation allocation conflicts within the Tiptree Neighbourhood Plan and the Adopted and Emerging Local Plans; these neighbourhood plan policies remain subject to examination. The applicant has also outlined their intention to raise objection to policies within the Tiptree Neighbourhood Plan (while maintaining support for the Tower End allocation) during the Regulation 16 consultation. A full new layout is currently being developed by the applicant.

Overall, the policy team support the principle of development at this site, in accordance with the Tiptree Neighbourhood Plan. However, the policy team are not able to support this application at this time, due to the remaining unresolved issues outlined above. Although the Council have given significant weight to the Emerging Tiptree Neighbourhood Plan, there remains areas of conflict between the proposal and the plan policies and is not appropriate to pre-empt the outcomes of the examination. It is therefore considered that this application prejudices the final stages of the Tiptree Neighbourhood Plan and undermines the plan-led approach.