



Appeal Decision

Inquiry opened on 25 October 2022

Site visit made on 4 November 2022

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

APPEAL REF: APP/A1530/W/22/3301862

Land at Brook Meadows, Tiptree, Colchester

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Kler Group Ltd ('the appellant') against the decision of Colchester Borough Council ('the Council').
 - The application Ref 202604, dated 19 November 2020, was refused by notice dated 10 May 2022.
 - The development proposed is the erection of up to 221 dwellings and associated infrastructure and works.
 - The inquiry sat for 9 days on 25-28 October, 1-4 November and 8 November 2022.
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Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. The application was submitted in outline, with only access to be determined at this stage. When the Council made its decision on this proposal its Core Strategy (CS) was still operative. However, in July 2022, after planning permission had been refused, the Council adopted the Colchester Local Plan 2017-2037 Section 2¹ (CLP2). As a result the CS policies referred to in the reasons for refusal have been replaced by CLP2 policies, as detailed in the general Statement of Common Ground² (SoCG) agreed between the Council and the appellant.
3. In summary, the reasons for refusal alleged that the proposed development would not accord with the development plan's overall spatial strategy; would be at odds with a number of adopted and emerging development plan policies; would be materially harmful in landscape terms; and fails to provide a legally binding mechanism to secure a range of required planning obligations. However, in the lead-up to the inquiry the Council indicated that subject to the outcome of the Regulation 16 Consultation on the Tiptree Neighbourhood Plan (TNP) 2022-2033³, which was scheduled to close on 12 October 2022, it could also seek to rely on a putative further reason for refusal on the grounds of prematurity in respect of the TNP. This turned out to be the case, with the Council producing an Addendum Delegated Report⁴ along with a Supplementary Proof of Evidence⁵ (PoE).

¹ Core Document (CD) 2.2

² CD 8.2

³ CD 4.1

⁴ CD 8.39

⁵ CDs 8.37 & 8.38

4. A range of supporting documents, detailed in the general SoCG, accompanied the application. Of particular relevance to this appeal are the Landscape and Visual Impact Assessment⁶ (LVIA); the Ecological Appraisal⁷ (EA); and the Shadow Habitats Regulation Assessment (SHRA) Screening Matrix and Appropriate Assessment⁸. These and other supporting and background documents are referenced in the CD list at the end of this decision. In addition, shortly before the opening of the inquiry the appellant agreed further SoCG with the Council, dealing with 5-year Housing Land Supply⁹ (HLS), Landscape¹⁰ and Ecology¹¹.
5. Planning obligations were submitted to the inquiry in the form of an agreement¹² made under section 106 (S106) of the Town and Country Planning Act 1990, as amended. I deal with these obligations in more detail under the fifth main issue.

Site description, surrounding area and details of the appeal proposal

6. The appeal site comprises some 11.67 hectares (ha) on the western side of Tiptree, adjacent to but outside the existing settlement boundary. It consists of an irregularly-shaped field, with a smaller more or less triangular-shaped field to the south. The Delegated Officer Report¹³ (DOR) and general SoCG describe the appeal site as currently primarily being used as agricultural land, and I understand that it was a 'pick-your-own' strawberry field until the late 1990s. It was cropped for cereals in 1997 and 1998 before being put into set-aside and then left unproductive with occasional once a year cutting – the last year of cutting being 2020.
7. At my site visit I saw that it appears to mainly comprise unmanaged grassland with encroaching areas of willow scrub and some areas of bramble scrub. A mound and trees towards the centre of the site mark the location of a small historic reservoir/water tank. The main part of the appeal site has a gentle slope from around 60m Above Ordnance Datum (AOD) in the north to around 50m AOD in the south. The additional small triangular area to the south-west is also unimproved grassland, similar in character to that of the main area. Mature trees and hedgerows line most of the site's boundaries, with woodland and an area of reclaimed gravel pits lying immediately to the west. This reclaimed gravel pit area, along with the appeal site, comprises the Inworth Grange and Brook Meadows Local Wildlife Site (LWS).
8. A small area of common land abuts part of the site's north-western boundary, with a medium-sized arable field beyond. A further arable field lies to the immediate south of the appeal site, with this land having been the location for a proposed development of up to 255 dwellings, dismissed on appeal in 2020¹⁴. Established residential development is located directly beyond the appeal site's eastern and north-eastern boundaries, comprising predominantly 1 and 2 storey dwellings of varying styles, fronting Maldon Road, Brook Meadows and Pennsylvania Lane.
9. Public footpaths run outside part of the southern and north-western boundaries of the site, with a short length of Footpath 19 (FP19) lying inside the site, close to its western boundary. A further public right of way (PRoW), FP38, splits from FP19 in a north-easterly direction, running just outside the site's north-western boundary and

⁶ CDs 5.16 & 5.17

⁷ CD 5.37

⁸ CD 5.38

⁹ CD 8.46

¹⁰ CD 8.31

¹¹ CD 8.41

¹² Document (Doc) 29

¹³ CD 1.1

¹⁴ CD 7.2 - App Ref APP/A1530/W/20/3248038

then links, by means of the strip of common land, to a restricted byway which runs along Pennsylvania Lane and abuts part of the site's north-eastern boundary. Other than just described there are no PRow within the appeal site, although there are a number of informal paths across the site, to which I refer later in this decision.

10. Brook Meadows is accessed from Maldon Road which is classified as the B1022 and provides the primary north-south route through Tiptree. Maldon Road is a bus route and has footways on both sides for much of its length in the vicinity of the Brook Meadows junction, although opposite this junction there is a short length where there is no footway on the eastern side of Maldon Road, only a grass verge. The general SoCG explains that Tiptree is one of the larger villages in the Borough and that it contains a range of local shops, services and facilities including 2 large supermarkets, a medical centre, library, and schooling.
11. Under the appeal proposal the appeal site would be developed by the construction of up to 221 new homes, of which 30% (66 units), are proposed as affordable housing. The development would be accessed from the existing Brook Meadows cul-de-sac and would retain a wide landscaped area around the edges of the site which would incorporate existing trees and hedgerows, supplemented by new structural planting. The development would also contain areas of open space, extending to about 5.41 ha, proposed in a number of locations and typologies including children's play areas, wildflower grassland and a network of footpaths.

Main issues

12. Having regard to the Council's original and putative reasons for refusal and the evidence submitted by all parties, I consider the main issues in this case to be:
 - The extent to which the proposed development would be consistent with the development plan for the area, and whether an issue of prematurity exists with the emerging TNP;
 - The effect of the proposed development on the character and appearance of the appeal site and the surrounding area, in landscape and visual terms;
 - The effect on matters of biodiversity, ecology and the natural environment;
 - Whether the Council can demonstrate a 5-year supply of deliverable housing land; and
 - Whether the submitted planning obligations would satisfactorily address the impact of the proposed development.
13. Following my assessment of the main issues I look briefly at other matters raised, before moving on to consider the weight to be given to relevant adopted and emerging development plan policies, and assess the benefits and disbenefits of the proposal. I then carry out a final planning balance and reach my overall conclusion.

Reasons

Main issue 1 – Consistency with the development plan, and whether an issue of prematurity exists with the emerging TNP

14. Under this first main issue I assess the proposed development against the relevant adopted development plan policies, having regard to policies in the National Planning Policy Framework ('the Framework'). I also consider emerging policies in the TNP and the weight which should be applied to them. I defer coming to a view on the weight to be given to development plan policies until I have assessed the Council's 5-year HLS under the fourth main issue.

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan for the area, unless material considerations indicate otherwise. The development plan in this case includes the Colchester Local Plan 2013-2033 Section 1¹⁵ (CLP1), adopted in February 2021 and the CLP2, adopted in July 2022.
16. The Framework is an important material consideration in this case, providing national policy guidance as well as clearly setting out the decision-taking process that should be adopted when considering planning proposals. In particular, it explains in its paragraph 11(c), that development proposals that accord with an up-to-date development plan should be approved without delay.
17. Whether the development plan is considered up-to-date depends on consistency with the Framework - the closer the policies in the development plan are to the policies in the Framework, the greater the weight that may be given to them. In situations where the development plan policies which are most important for determining the application are out-of-date – which includes circumstances where the Council cannot demonstrate a 5-year supply of deliverable housing sites, with the appropriate buffer - paragraph 11(d) of the Framework makes it plain that planning permission should be granted unless:
 - i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
18. The issue of HLS was in dispute between the main parties and was debated at the inquiry. I consider the respective arguments later, under the fourth main issue.
19. The Planning Practice Guidance (PPG) is also an important material consideration in the determination of this appeal.
20. Also relevant is the emerging TNP, and under this first main issue I consider whether any grant of planning permission would be premature in light of the stage of preparation of this emerging plan, having regard to guidance in the Framework.
21. Much of the discussion at the inquiry centred on the Council's spatial strategy and the concept of 'appropriate growth' for the Sustainable Settlements, primarily Tiptree, and how this term should be interpreted. The spatial strategy set out in CLP1 Policy SP3 builds on the presumption in favour of sustainable development detailed in CLP1 Policy SP1 and explains that existing settlements will be the principal focus for additional growth across the North Essex area within the Local Plan period. It states that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area.
22. It further states that future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. It also explains that within Section 2 of the Local Plan each local planning authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs. These points are carried

¹⁵ CD 2.1

forward into CLP2 Policies SG1, which deals with Colchester's Spatial Strategy, and SG2, dealing with housing delivery.

23. The phrase 'appropriate growth' is first mentioned in the 'Growth Locations' section of CLP2, in the supporting text to Policy SG1. This section indicates that the urban area of Colchester is the most sustainable location for growth, with the next tier in the spatial hierarchy including a Garden Community, programmed for long term strategic growth beyond the plan period, and the existing Sustainable Settlements. It explains that some growth will be channelled to these Sustainable Settlements to encourage their continued growth, and that the growth provided for is considered appropriate to the size of the settlement, local landscape character, other local constraints, identified need and the availability of infrastructure. The policy states that most of the Sustainable Settlements are planned for appropriate growth.
24. Then, CLP2 Policy SG2 explains that the Council will plan, monitor and manage the delivery of at least 14,720 new homes in Colchester Borough between 2017 and 2033, with this housing target being based on a robust Objectively Assessed Housing Need (OAHN) figure of 920 homes a year. The policy makes it clear that the overall distribution of new housing, as shown in Table SG2 which is directly referenced in the policy, is guided by the settlement hierarchy set out in the spatial strategy and Policy SG1.
25. The policy goes on to state that to maintain the vitality and viability of the Borough's smaller towns and villages, an appropriate level of new development will be brought forward in Sustainable Settlements to support new homes and economic and social development. Contrary to views expressed by the appellant, detailed later, I consider the phrase "*an appropriate level of new development will be brought forward*" to be a clear and unambiguous reference to "*those allocations*" mentioned just a few lines later.
26. Table SG2 shows the number of homes delivered in the 2017-2021 period; existing commitments for the period 2021-2033; and new allocations for the 2021-2033 period. In the case of Tiptree, homes delivered and existing commitments total 375 dwellings, with new allocations shown as 400. Policy SG2 makes it clear that details on these allocations are provided in later policies in CLP2, with Policy SS14 dealing specifically with Tiptree.
27. The wording of CLP1 Policy SP3 and CLP2 Policies SG1 and SG2 is quite clear that the growth in the Sustainable Settlements is to be 'planned'. A plain reading of these policies, therefore, is that there is a very strong indication and expectation that figures set out in the likes of CLP2 Policies SG2 and SS14, referred to below, should be adhered to wherever possible, in order to achieve the type of sustainable development planned for the Borough, through the spatial strategy.
28. Supporting text to Policy SS14 explains, at paragraph 6.218, that a Neighbourhood Plan is currently being prepared which will allocate sites for further growth in the Parish, and that in discussion with the Tiptree Neighbourhood Plan Steering Group (TNPSG), it has been agreed that Tiptree will deliver 600 new dwellings over the plan period. This figure has been arrived at having regard to the current number of dwellings in Tiptree, the good availability and access to services and facilities, and the fact that Tiptree is a District Centre. Importantly, this supporting text states that this is considered an appropriate level of growth for Tiptree.
29. This latter point highlights a significant area of difference between the Council and the appellant as to how this and the other policies referred to above should be

interpreted. The Council's view, echoing that just noted in the supporting text to Policy SS14, is that an overall figure of 600 new dwellings over the plan period represents an appropriate level of growth for Tiptree, in accordance with the planned distribution of new housing as set out in the Local Plan's spatial strategy.

30. The appellant takes a different view, in effect arguing that the 600 figure only applies to proposed allocations, which should be seen as just one 'component' of the growth considered 'appropriate' for Tiptree. The appellant's position is that 'appropriate growth' for Tiptree is to be determined by the emerging TNP, through Policy TIP01, and will comprise the allocations plus other unspecified and unplanned development which will be deemed acceptable as long as it accords with the requirements of this emerging policy, which references CLP2 Policies SG1 and OV2.
31. However, I do not accept the appellant's contention that the allocations do not provide for an appropriate level of growth in Tiptree – and that such a level can only be determined by the TNP. There is no mention of the need for any additional housing development over and above the allocations within Policy SS14, and there is a specific statement within that policy that proposals for development outside the settlement boundary will not be supported.
32. My view on this matter is supported and reinforced by the way the Inspectors who examined the CLP2 dealt with the fact that outline planning permission had been granted on appeal in April 2020 for up to 200 dwellings at Barbrook Lane¹⁶ on the north-eastern side of Tiptree. The Inspectors explained at paragraph 110 of their Report¹⁷ that it was necessary to provide new guidance within the explanatory text to Policy SS14 to reflect the latest position in the village following this Barbrook Lane planning permission; to incorporate this as an existing commitment in terms of housing supply; and to amend the housing requirement within criterion (ii) of the policy by deleting '600' and replacing with 'a minimum of 400 dwellings'.
33. To address these points the Inspectors put forward Main Modifications MM70 and MM71, with the former amending the supporting text to Policy SS14 and the latter amending the policy itself. The accompanying reasoning to MM71 explains that the housing number specified is a minimum number in accordance with national policy. Like the Council, I consider this to be a clear reference to paragraph 29 in the Framework, which states that Neighbourhood Plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies. I further consider that these points reinforce the unambiguous statement in this policy's supporting text in the now adopted CLP2, that 600 new dwellings over the plan period is an appropriate level of growth for Tiptree.
34. The adopted CLP2 Policy SS14 details matters which the TNP will need to address, within the preferred directions of growth to the southwest and north/north-west as shown on the Tiptree policies map¹⁸, and subject to existing constraints. These include defining the extent of a new settlement boundary; allocating specific sites for housing allocations to deliver a minimum of 400 dwellings; setting out any associated policies needed to support this housing delivery; and setting out the policy framework within the parish to guide the delivery of any infrastructure/ community facilities required to support the development. As just noted, it also states that proposals for development outside of the settlement boundary, or settlement boundary defined by the TNP once adopted, will not be supported. As

¹⁶ See CD 7.1 - App Ref APP/A1530/W/19/3223010

¹⁷ CD 3.13

¹⁸ CD 2.3

the appeal site does lie outside the settlement boundary for Tiptree, the appeal proposal is clearly in conflict with Policy SS14 in this regard.

35. Although the appellant argues that this conflict with the settlement boundary part of Policy SS14 is just a technical breach that does not go to the heart of the objectives of the development plan, I do not agree. In my assessment it goes right to the heart of the development plan as it would clearly conflict with the planned distribution of development which is a fundamental element of the spatial strategy.
36. Development in the countryside, outside settlement boundaries, is permitted by the CLP - but only in certain circumstances. In this regard the supporting text to CLP2 Policy SG1 indicates that settlement boundaries are an essential tool for the management of development as they contribute to the achievement of sustainable development by preventing the encroachment of development into the countryside. Policy SG1 itself indicates that development in the countryside is acceptable, but only where it accords with CLP2 Policy OV2.
37. CLP2 Policy OV2 states that residential development proposals in the countryside, outside defined settlement boundaries, will need to demonstrate that the scheme respects the character and appearance of landscapes and the built environment and preserves or enhances the historic environment and biodiversity. It also states that proposals in close proximity to a habitats site must demonstrate through Habitat Regulations Assessment (HRA) screening that the scheme will not lead to likely significant effects to the integrity of the habitats site. Where this cannot be ruled out a full appropriate assessment will be required to be undertaken. I discuss this policy further under the second and third main issues.
38. CLP2 Policy ENV1 is also relevant to proposals for development in the countryside. Amongst other things it states that development in the countryside should not have an adverse impact on a number of listed matters, including the intrinsic character and beauty of the countryside and visual amenity. The policy requires any such impact to be carefully balanced against "*the requirement for new development within the countryside to meet identified development needs in accordance with Colchester's spatial strategy*". In the current case, as the preferred site allocations are already being taken forward in the emerging TNP and do not include the appeal site, I do not consider that development on the appeal site can reasonably be considered to fall within the "*identified development needs*" category just stated.

Emerging Tiptree Neighbourhood Plan (TNP)

39. The TNP area was designated back in 2015 and an earlier version of the TNP reached Examination stage in August 2020, but the Examiner concluded that it would not meet the Basic Conditions or the legal requirements and recommended that it should not proceed to a Referendum. Because of this a second version of the TNP is being prepared and has currently reached Regulation 16 stage, with that consultation ending on 12 October 2022. The Examination has commenced, and was in progress while this inquiry was sitting.
40. A number of emerging policies were discussed at the inquiry. TIP01 sets out the proposed spatial strategy for the village, stating that new development in Tiptree parish will be focussed within the settlement boundary and on 2 identified site allocations covered by Policies TIP15 and TIP16, as identified on the Policies Map. These locations are both to the north of the village. The policy goes on to explain that development proposals outside the settlement boundary will only be permitted

where certain criteria are met. In the case of new housing development these include that the proposal is in accordance with CLP2 Policies SG1 and OV2.

41. Part B of this policy indicates that the TNP provides for a minimum of 400 dwellings, in addition to those already approved at Barbrook Lane, with each of the 2 named site allocations intended to deliver a minimum of 200 dwellings. Part C details a number of key matters which the site allocations will be expected to address, whilst part D indicates that development on the allocated sites must preserve the indicative route of a link road between the B1022 and the B1023.
42. Policy TIP11 deals with green infrastructure and, amongst other things, it indicates that the LWS shown on the Policies Map are locally designated sites of importance for biodiversity and are protected accordingly. Development proposals that affect a LWS must meet the requirements of CLP2 Policy ENV1, and any proposals that have adverse effects on the integrity of habitats sites (either alone or in-combination) will not be supported. The Inworth Grange and Brook Meadows LWS was extended to include the appeal site in 2015.
43. Policy TIP13 states that a number of spaces are shown on the Policies Map as Local Green Space (LGS). These include the appeal site. The policy states that proposals for built development on a LGS will only be permitted in exceptional circumstances. The final 2 policies of relevance are TIP15 and TIP16, covering the 2 allocation sites, Highland Nursery and Elms Farm respectively. For each site the policies set out a detailed list of criteria with which the developments will need to comply.
44. The Council's position at the start of the inquiry was that as the Regulation 16 consultation period had ended, significant weight should be given to the emerging TNP and any grant of planning permission for the appeal proposal would therefore be premature, in the context of paragraph 50 of the Framework. However, following cross-examination the Council's planning witnesses accepted that as emerging Policy TIP01 in effect uses the same tests as the adopted development plan to assess whether development outside the settlement boundary would be acceptable, this aspect of the prematurity argument was not made out. Moreover, as no firm evidence had been submitted to show that the proposed allocations would be abandoned or not come forward if planning permission was granted for the appeal proposal, there was nothing to support the conclusion that the outcome of the plan-making process would be prejudiced. In these circumstances the Council accepted that no prematurity argument could be sustained. I share that view.
45. The Council further acknowledged that emerging Policy TIP13, which seeks to have a LGS designation accepted for the appeal site, in accordance with Framework paragraphs 101 and 102, is subject to a significant unresolved objection from the appellant and can therefore only be given limited weight. Again, I share that view.
46. For the appellant, Mr Robson argued in his PoE, prepared before the Regulation 16 consultation had concluded, that the emerging TNP should only be attributed limited weight in this appeal. Mr Robson did not specifically change his position on this matter at the inquiry, although he did make it clear that he considered significant weight should be given to Policy TIP01 as it has been amended to take on board the previous Examiner's comments. He accepted that this policy was also subject to some as yet unresolved significant objections, but maintained that these objections did not relate to windfall development outside the settlement boundary which is, in effect, what the appeal proposal would be.

47. Whilst I note this latter point, it is apparent that there are a number of unresolved objections to various aspects of this emerging plan with which the Examiner is going to have to grapple. It is not possible at this stage to predict the outcome of this Examination process and whether or not the plan will be able to proceed to Referendum. In these circumstances I do not consider it appropriate to give any more than limited weight to this plan and its policies. I have therefore assessed this proposal primarily on the basis of the adopted development plan policies.
48. That said, I do consider it appropriate to treat the version of the TNP currently before the Examiner as providing an indication of the way in which the TNPSG and the Tiptree community see the village growing and developing over the plan period. In this regard I note that the TNP has sought to allocate specific sites for housing to deliver a minimum of 400 dwellings, within the preferred directions of growth shown on the Tiptree policies map, and to achieve other policy objectives set out in CLP2 Policy SS14. It is self-evidently the case that the appeal site does not lie within any of the preferred growth directions.
49. Returning to emerging Policy TIP01, Mr Robson stated, when presenting his evidence in chief, that this policy was expressly drafted to allow development in excess of 400 dwellings to come forward. The appellant confirmed this view in its closing submissions where it stated "*emerging Policy TIP01 has chosen not to constrain growth to the proposed allocations*". However, I consider both of these statements to be a somewhat strained reading of the policy. To my mind it is quite clear that the spatial strategy set out in this policy envisages development to be focussed within the settlement boundary of Tiptree and on the 2 allocated sites. It says so in terms in its opening sentence.
50. Part A of the policy does allow for development proposals outside the settlement boundary, where they comply with the criteria set out in (a) to (c), but I find it very difficult to imagine that those drafting this policy envisaged this part of it being used to support a significantly-sized unplanned new housing area of 221 dwellings – potentially larger than either of the allocated sites. This view was borne out by comments made by Cllr Greenwood in his closing statement¹⁹, where he stated that "*it was never intended that Policy OV2 should be used to justify the development of an estate of 221 dwellings in the countryside*". He further explained that if the TNPSG or its consultants and advisors had any inkling that this could be the case, Policy OV2 would never have been referenced in TNP Policy TIP01.
51. I acknowledge that the Council's planning witnesses did not identify any substantive planning harm by reference to the scale of the appeal proposal, and in this regard I have noted the appellant's contention that as a national planning policy imperative is to secure a significant boost to housing delivery, restricting housing delivery in the absence of any associated substantive harm would be inconsistent with that objective. However, the objective to significantly boost the supply of housing to meet the needs of the area already lies at the heart of the Local Plan, with CLP1 paragraph 4.2 confirming that this objective is behind the North Essex Authorities' commitment to plan positively for new homes. I further note that CLP2 Table SG2 indicates an over-provision of housing, with 15,970 new dwellings anticipated during the overall plan period compared to the OAHN requirement of 14,720.
52. Moreover, I consider there to be undeniable harm in this case arising from a conflict with the Council's planned spatial strategy and its growth intentions for Tiptree, which are actively being taken forward by the local community in the emerging

¹⁹ Doc 33

TNP. I share the Council's view that harm to the spatial strategy and the growth planned for Tiptree has already arisen as a result of an unplanned grant of planning permission in May 2022 for 130 dwellings on land adjoining The Gables²⁰, to the north-west of the village. The appeal proposal would significantly exacerbate that harm and, as already noted, would be in clear conflict with adopted CLP2 Policy SS14 as the appeal site lies outside the existing (and proposed) settlement boundary of Tiptree. With sites for a minimum of 400 dwellings already identified in the emerging TNP, development on this site is not needed as part of the Council's spatial strategy.

53. Whilst I accept the appellant's point that the allocation figure of a minimum of 400 dwellings is not a cap or a ceiling, I see nothing in any of the policies referred to above, or elsewhere in the development plan, to suggest that an additional development of the size proposed here, outside the defined settlement boundary of Tiptree and therefore expressly not supported by Policy SS14, would be acceptable.
54. In summary, I do not accept the appellant's arguments that the proposed housing allocations for Tiptree, referred to specifically in CLP2 Policies SG2 and SS14, and the supporting text accompanying these policies, should only be seen as a component of the 'appropriate growth' for Tiptree, and that further, significantly-sized unplanned development can acceptably come forward in accordance with emerging TNP Policy TIP01 Part A (a)-(c).
55. In considering this proposal I have noted the concessions made by the Council's planning witnesses in the course of fairly intensive cross-examination, as set out in the appellant's closing submissions²¹. I give weight to these concessions as material considerations in my assessment of this proposal – but I do not regard them as determinative. I am required to reach a reasoned decision on the basis of all relevant evidence, assessed against the development plan as a whole, and relevant material considerations, and in carrying out this role I have reached some different views to those expressed by the Council's planning witnesses on some of their policy interpretations. Similarly I have taken different views on other policy matters to those expressed by the appellant's planning witness, as detailed above.
56. Drawing all the above points together, I conclude that the proposed development would represent an unjustified and unplanned development in a countryside location which would be fundamentally at odds with and harmful to the planned spatial strategy for the Borough. It would therefore be in conflict with CLP1 Policies SP1 and SP3, and CLP2 Policies SG1, SG2, SS14 and ENV1. Because of the conflict with CLP2 Policy SG1, I further consider the proposed development would be in conflict with emerging TNP Policy TIP01.

Main issue 2 – the effect on character and appearance in landscape

57. Before discussing this issue in detail it is first necessary and helpful to set out the differing views taken by the parties with regard to access to the appeal site. I was told by interested persons who spoke at the inquiry that the appeal site is well-used by local residents for walking and recreational purposes, with many of the representations made at application and appeal stages making the same claims. Aerial photographs submitted in evidence show what appear to be informal paths on the appeal site dating back to at least 2005, and at my accompanied site visit I saw the pedestrian kissing-gate at Brook Meadows and the dog-waste bin at

²⁰ See CD 7.3 - App Ref APP/A1530/W/21/3278575

²¹ Doc 35

Pennsylvania Lane, both of which were referred to by Cllr Greenwood on behalf of Tiptree Parish Council (TPC) and the TNPSG, and by interested persons.

58. Notwithstanding these points, it remains the case that with the exception of the short length of FP19 which lies within the appeal site's western side, the Definitive Map shows that no ProW pass through the appeal site. Moreover, 2 letters²² submitted to the inquiry on behalf of the landowners and their wider family make it clear that the appeal site is privately owned; that there is no public right to use the land to roam; that there are no rights of way over the site; and that no member of the public using the site for recreational purposes has permission now, or has had permission to do so at any time in the past.
59. I understand that recent applications have been made to add some of the informal paths to the Definitive Map, but this is a separate process, outside the scope of this appeal. I have therefore carried out my assessment of the appeal proposal on the basis that there are no formal PRoW on the site, with the exception of the short length of FP19 to which I have already referred. This appears to be the way the Council assessed this proposal, as I see that there is no reference to any informal paths or use of the site by the public in the DOR.
60. As noted earlier, emerging TNP Policy TIP13 seeks to designate the appeal site as a LGS, in accordance with paragraph 101 of the Framework. Again, this is not a matter for this appeal, but one for the Examiner of the TNP to consider. What is, however relevant, is the fact that only limited weight can be given to this emerging policy, for reasons already given. Conflict with this emerging policy would not therefore be a sufficient reason, of itself, for this proposal to fail.
61. The site is located within National Character Area 111, Northern Thames Basin²³, and at the County level the site sits within the Wooded Hills and Ridges Landscape Character Type (LCT) and the Tiptree Ridge Landscape Character Area (LCA) of the Essex Landscape Character Assessment²⁴. At the more local level, the appeal site is located within the Wooded Farmland LCT, and LCA F2, Tiptree Wooded Farmland, as set out in the Colchester Borough Landscape Character Assessment²⁵. Key characteristics of this LCA, exhibited by or relevant to the appeal site, include many small patches of woodland; a character area influenced by the nucleated Tiptree settlement within the centre of the area; and a mosaic of small to medium-sized, predominantly arable fields, with a predominantly small-scale field pattern.
62. The site is not covered by any qualitative landscape designations at a national or local level, and no specific features in landscape terms were claimed by any party to the inquiry, with there being nothing to suggest that the appeal site should be considered a valued landscape in the terms of paragraph 174(a) of the Framework.
63. The appellant's LVIA was carried out in accordance with the Guidelines for Landscape and Visual Impact Assessment, Third Edition²⁶ (GLVIA3). It accepted that the proposal would change the character of the appeal site but considered that it would not result in the loss of any important landscape features and would simply introduce a land use which is characteristic in this settlement fringe setting. It further accepted that the proposal would change the visual environment within the context of the appeal site but pointed out that views of the proposed development

²² Docs 13 & 27

²³ CD 5.4

²⁴ See CDs 5.2 & 5.5

²⁵ See CD 5.1

²⁶ CD 5.8

would be highly localised, such that there would be no significant long-term adverse effects upon the local or wider visual environment. The proposal would also incorporate areas of landscaped public open space (POS) around the periphery of the site, and as this planting matures it would create a robust landscape setting which would soften the built edge of the proposed development.

64. In summary, the LVIA considered that the appeal site and receiving environment have the capacity to accommodate the appeal proposal, and that the proposed development could be integrated in this settlement fringe location without significant harm to the landscape character or visual environment, and is therefore supportable from a landscape and visual perspective.
65. However, relying on the advice of its own in-house landscape officers the Council took a different view, concluding that the proposal would result in the loss of part of the mosaic of small to medium-sized fields which are characteristic of LCA F2, resulting in a harmful and fundamental loss of landscape character. The Council also considered that the development would be visually intrusive, including for users of the PRow network. These views shaped the third reason for refusal, which also alleged that the proposal would be contrary to CLP1 Policy SP7 and emerging (now adopted) CLP2 Policies ENV1 and OV2, which require that development proposals should conserve and enhance the Borough's natural environment and countryside and respect the character and appearance of its landscapes.
66. At the inquiry, the findings and conclusions of the LVIA were supported and echoed by the appellant's landscape witness, Mr Jenkinson, who further concluded that the significance of the effect of the proposed development upon the character of the LCA within the immediate context of the appeal site would be minor adverse at Year 1, reducing to negligible adverse at most at Year 10, as the proposed landscaping matures. In terms of visual impact, Mr Jenkinson supported the LVIA's conclusion that the proposed development could be integrated without significant long term adverse effects to the receiving visual environment.
67. Landscape evidence for the Council was presented at the inquiry by Mr Cowlin, who had also prepared independent advice for the Council prior to the determination of the planning application²⁷, although this was not relied on or referred to in the DOR. This earlier advice concluded that the proposal would cause harm to the character and appearance of the area that should be given moderate weight, and whilst not sufficient to be an overwhelming individual influence on the planning decision it should nevertheless be considered as part of the overall planning balance.
68. This earlier advice indicated that the landscape harm would be expressed within a quite tightly defined landscape area but would be quite pronounced within the defined local context, partly due to the area's recreational value. In this regard the advice and assessments had regard to people using the PRow network in the area. The advice also referred to what was stated to be "*unofficial, albeit well established, access and use*" of the site, and further commented that although this may be a problematic matter in planning terms it seems that "*local people have enjoyed uninterrupted access over the application site land for at least the last 17 years*".
69. In his PoE Mr Cowlin reassessed his earlier advice and presented a somewhat different case, arguing that the proposed development should be seen as having a major adverse effect on the local landscape, with the visual experience for people walking in and exploring this local area of countryside also being affected to a

²⁷ CD 5.15

major adverse degree. However, it became apparent at the inquiry that these changes had come about, in part, because Mr Cowlin had given increased importance to the informal recreational use of the appeal site, particularly in his assessment of visual impacts. Under cross-examination he agreed that the correct and proper way to assess the likely impacts of the proposal is on the basis that there is no right for the public to access the appeal site; that the landowner could fence the site to prevent access at any time; and that permission is required by the public to access the site.

70. I share that view, especially as GLVIA3 indicates that assessments should almost exclusively be carried out only from public viewpoints or other locations where the public is permitted. GLVIA3 accepts that in some instances it may be appropriate to consider private viewpoints, mainly from residential properties, but it makes it clear that in such cases the scope of any assessment should be agreed with the competent authority. In this case there was no suggestion by the Council that assessments from private viewpoints were necessary or appropriate, and indeed as already noted the Council made no reference to any informal paths in its DOR. Moreover, under cross-examination Miss Moss, one of the Council's planning witnesses, accepted that it is Mr Cowlin's earlier advice which should be relied on.
71. With these points in mind, I have given very limited weight to the assessments and conclusions in Mr Cowlin's PoE and have, instead, had greater regard to his earlier pre-determination advice and the in-house landscape officers' comments and views, in seeking to understand the Council's case. I have also had regard to the findings of the LVIA and the views put forward for the appellant at the inquiry by Mr Jenkinson, together with the wide variety of photographic material submitted in evidence. But I have also relied on my own observations of the appeal site and the surrounding area made at my accompanied site visit, in assessing this proposal.
72. Having had regard to the various assessments put before me I consider it reasonable to ascribe a moderate or medium baseline value to the appeal site. To my mind it contains no particular significant features to elevate it above 'ordinary countryside', and whilst I acknowledge that in its current state it exhibits a somewhat different character to the arable fields to north and south, I share the view of the Council's in-house landscape officers that in broad terms it represents a characteristic medium-sized field on the western fringe of Tiptree.
73. At my site visit I saw that the existing residential development at Maldon Road, Brook Meadows and Pennsylvania Lane which lies adjacent to the appeal site appears to be of relatively low density, with some of these dwellings visible from locations within the appeal site and also to users of some of the PRow which run just outside sections of the site's boundaries. But as these boundaries are lined by trees and established hedgerows, only glimpsed and filtered views into the site from the PRow are generally available.
74. The illustrative Landscape Strategy Plan submitted with the application shows that the proposed development would be set back somewhat along the site's north-eastern side to allow the existing vegetation along these boundaries to be retained and reinforced with native species. It also shows that existing wooded areas on the site's south-western side would be retained and that large areas of POS are also proposed on the site's southern and western sides, to include a surface water balancing area, equipped children's playspace and a formalised network of footpaths. The general SoCG indicates that in total some 5.41 ha of the site would comprise open space.

75. But notwithstanding the amount of POS proposed, it is clearly the case that the proposed development would transform the appeal site from an undeveloped field of medium/moderate landscape value, outside the settlement boundary, to a relatively densely-developed residential area. As such, I consider it self-evident that it would have an adverse impact on the rural character and appearance of the appeal site. I further consider that this would inevitably have an adverse impact on the visual experience of users of the PRow, by bringing a more developed feel to the whole area. That said, residential development already exists in this general area, as just noted, and the new dwellings would also only be likely to be seen in glimpsed views, primarily from the byway along Pennsylvania Lane, and FP38 and the common land close to the site's north-western boundary. Taken together, I would categorise the extent of the adverse impact on landscape character and visual experience as moderate.
76. I acknowledge that the appeal proposal would result in some benefits, as the illustrative Landscape Strategy Plan indicates that the 2 paths that are the subject of the PRow claim referred to in paragraph 59 above, could be accommodated within the proposed areas of POS and green infrastructure. This would formalise rights of access across the site and provide links to the wider PRow network to the west, but as these routes across the site would pass through or immediately adjacent to developed areas – albeit through high quality landscaping – I consider that this increased access provision should only be considered a modest benefit.
77. Drawing the above points together I conclude that the appeal proposal would have a moderate adverse impact of the rural character and appearance of the appeal site, and accordingly would fail to conserve this part of Colchester's countryside. It would, however, have a much more limited impact in wider landscape terms. It would also have a moderate adverse impact on the visual experience of users of the nearby PRow network.
78. As a result of the identified harm, I further conclude that the appeal proposal would conflict with CLP2 Policies ENV1 and OV2, both of which I have discussed earlier. There would also be a conflict with those parts of CLP1 Policy SP7 which require new development to respond positively to local character and context to preserve and enhance the quality of existing places and their environs; and protect and enhance assets of historical or natural value. I weigh these harms against the benefits of the appeal proposal in the planning balance section of this decision.

Main issue 3 – the effect on biodiversity, ecology and the natural environment

79. The Inworth Grange Pit LWS, originally designated in 1991 to cover the area of restored gravel pits generally to the west of the appeal site, was reviewed in 2008 and then extended in 2015 to include the appeal site itself. This extension was made on the basis of the presence of unimproved grassland which had developed following the removal of previous arable habitat management. In addition, 6 species of orchids are listed as being present across the extension area, with details set out in the Ecology SoCG agreed between the Council and the appellant. A single stand of Tongue Orchid was also recorded on the site in 2017 and 2018.
80. The LWS is a non-statutory designation, and the Ecology SoCG confirms that no statutory designated sites of nature conservation interest are present within the site, although a number of such sites are present in the wider environment. The statutory designated sites where 'likely significant effects' were identified at the screening stage of the SHRA are: Blackwater Estuary Special Protection Area (SPA) and RAMSAR site; Dengie SPA and RAMSAR site; and Essex Estuaries Special Area

of Conservation. The main parties agree none of the qualifying habitats of the various designated sites are present within the appeal site. As such, there is no conflict with the relevant aspect of CL2 Policy OV2, in this regard.

81. As well as being supported at application stage by an EA and a SHRA, 4 further ecological submissions were then made during the determination period, and on the basis of this supporting information the Council consulted Essex County Council's Place Services' ecological advice service. In summary, Place Services raised no objection to the proposed development subject to the overcoming of policy constraints for development affecting a LWS; the adoption of the updated SHRA screening report; and securing ecological mitigation, namely sufficient compensation for loss of part of a designated LWS, and biodiversity enhancements.
82. As a result, when refusing planning permission the Council did not attach any specific reasons for refusal relating to ecology or nature conservation, although the fourth reason for refusal does indicate that at the time of determination no contribution relating to mitigation for increased recreational pressure had been secured through any legally binding mechanism. This matter has now been resolved through the submitted S106 agreement, which I discuss under the fifth main issue.
83. In light of the above points, and the Council's view that ecology and nature conservation concerns could be satisfactorily and adequately addressed by means of planning conditions and the S106 agreement, the Council presented no evidence on this issue to the inquiry. Objections on these matters were, however, sustained by others, primarily Dr Gordon for the Essex Wildlife Trust (EWT), and Cllr Greenwood on behalf of the TPC and the TNPSG.
84. These parties maintained that the appeal proposal would be contrary to national and local planning policies for the protection of the environment and would conflict with national guidelines and standards for the implementation of Biodiversity Net Gain (BNG). They argued that the proposal would result in the unacceptable loss of the majority of the grass meadow, a significant loss of biodiversity and an increase in habitat fragmentation as well as a damaging increase in recreational impacts on retained habitats due to a significant increase in site usage by new residents.
85. The EWT pointed out that clear guidelines for the protection of LWS are provided in Framework paragraphs 174, 175 and 179, with paragraph 180 providing a strong direction regarding the correct application of the mitigation hierarchy, with the first step always being the avoidance of impacts. The EWT also detailed some of the criteria in CLP2 Policy ENV1 and argued that this policy steers development away from LWS in all but the most socially significant situations, where an overriding need for the development in that location has been established. The EWT also argued that BNG offsetting is being used as a means to legitimise a development that would not otherwise be permitted.
86. In summary, the EWT argued that the appellant has reversed the order of the sequential steps detailed in the Framework, by citing compensatory enhancements as the basis for justifying the appeal proposal, whereas compensation should only be considered if avoidance is unachievable. It maintained that there are suitable alternative sites available that would have far less harmful impacts on ecology, with the appellant not having demonstrated that these options have been considered.
87. The above views were echoed by Cllr Greenwood, who was also very critical of the fact that Place Services had been required by the Council to "*engage with the appellant to seek to resolve ecological matters*". He argued that this undermines

the integrity of the Place Services report, taking the view that if CLP2 Policy ENV1 requires the avoidance of the site, it is not appropriate to engage with the appellant to seek to resolve the ecological matters. However, I do not share Cllr Greenwood's views, for a number of reasons.

88. Firstly, it is clear from the DOR that the Council regularly uses the Place Service's ecological advice service as a consultee on planning applications that have potential ecological impacts. Secondly, the Place Services report²⁸ has clearly been authored by an appropriately qualified person, and the submitted Ecology SoCG makes it quite clear that Place Services were engaged to provide an independent review of the submission documents. Thirdly, paragraph 38 of the Framework requires local planning authorities to actively engage with applicants for planning permission to see whether or not applications can be approved. This is not an 'approve at all costs' direction, and with these points in mind I see nothing untoward with Place Services' terms of engagement on this matter.
89. Whilst accepting that the long-term future of the ecology of the site is uncertain, Cllr Greenwood argued that nothing is unrecoverable if the site is left undeveloped, but that if the appeal proposal was to proceed the loss of land to development, changes in drainage and visitor pressure mean that the site would be permanently lost to the rare species it contains. He and others contend that the proposed translocation of orchids would have a low chance of success, especially as the precise microbial content of the soil and the water and drainage conditions of the area where the orchids are found do not occur in the proposed translocation areas or on any other area around the Tiptree border.
90. Whilst various objections have been put forward on these matters it remains a fact that the Council is satisfied that the appellant's ecological submission is robust and fit for purpose, and that surveys have been appropriately carried out in accordance with standard methodologies and by competent ecologists. Moreover, Natural England (NE) has also been consulted and raises no formal objection as it does not consider the proposed development would result in any impacts to statutory designated sites. On this point I share the conclusions of the latest SHRA Screening Matrix and Appropriate Assessment submitted by the appellant²⁹. These are that with the mitigation which would be provided by the proposed on-site green infrastructure and a financial contribution in accordance with the Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast, in combination with other plans and projects there would be no adverse effect on the integrity of any statutory designated sites.
91. It was apparent at the inquiry that some objectors considered the appeal site contained species which meant it should be classified as Lowland Meadow, which is a Priority Habitat Type. However, whilst the surveys which have been carried out on the appellant's behalf do show that some such species are present, they have not been found in sufficient abundance to justify categorisation as Lowland Meadow. No contrary, competent survey work has been submitted to persuade me otherwise. Indeed no alternative survey work has been placed before the inquiry to set against the wealth of ecological evidence, which has been submitted by the appellant and scrutinised by independent professional experts on behalf of the Council.
92. I understand that at the time the appeal site was brought into the LWS designation in 2015, the citation records that the site and its orchid populations were vulnerable

²⁸ CD 1.3

²⁹ CD 5.40

to the willow scrub that had already become 'dominant' over large parts of the field. The appellant's ecology witness, Mr Goodman, stated that mowing would not have arrested the spread of the scrub, and I note that the 2015 citation expressly indicated that continued management was required to slow this process if the diversity of habitats and species was to be retained.

93. However, it does not appear that any environmental body has provided support and advice to the site owners following designation, and as a result there has been no appropriate management of the site. There is no statutory obligation on the landowner to manage the site, and the site has not been the subject of any agricultural incentive scheme. In light of these points I have been mindful of Mr Goodman's uncontested evidence that, without management, the scrub will become dominant within 5–10 years leading to the total loss of the orchids and grassland. This view is reinforced by the submitted survey work which shows that there has been significant advancement of willow scrub over the past 2 years, such that it now covers some 32% of the site. I share the appellant's view that the advancement of the willow scrub is an active threat to the longevity of the grassland and orchids within the site, that give it its ecological value.
94. In contrast, the appellant points out that the appeal proposal would provide the opportunity to retain, restore, enhance and positively manage some 3.5ha of the existing grassland, amounting to about 69% of the total designated LWS site. Orchids would be translocated within the site, and notwithstanding the concerns expressed by Cllr Greenwood and others on this point, the appellant maintains that as the proposed receiving area would have the same soil conditions, there can be confidence that the translocation would be effective. That said, I can only give this translocation aspect of the appeal proposal limited weight as little evidence on this matter was placed before me, and that was not of a particularly robust nature.
95. Nevertheless, a different form of safeguarding would be offered in the case of the Tongue Orchid, which would be protected by means of a proposed buffer zone which could be secured by condition. I note also, that under the appeal proposal new areas of native species, scrub, and woodland planting would be provided throughout the open spaces, together with new tree planting. In addition, the surface water balancing facility would create new wetland habitats which would increase diversity within the site.
96. The appellant has also pointed out that the green infrastructure would be designed to respect the ecological sensitivities of the site, through the implementation of accessible mown grass footpaths or low-key surfaced footpaths with appropriate grassland management. All the retained and new habitats within the green infrastructure would be the subject of a long-term management plan to restore and maintain the grassland interest, including the orchid assemblage.
97. On balance, having regard to the matters set out above, it is clear to me that some guaranteed protection of the ecology interest of the overall site would be secured, by suggested conditions and provisions of the S106 agreement (see later) if this proposed development was to proceed. These would be benefits of the proposal.
98. Returning to the consultation comments from NE, I have noted that whilst not raising any formal objection, NE does consider the appeal site to be of extremely high ecological value, and advises that great weight should be given to the representations from EWT and other environmental bodies. However, in this regard it is relevant to note that although a number of paragraphs in Section 15 of the

Framework were referred to by both EWT and Cllr Greenwood, several of these relate to plan making as opposed to decision-making – as is the case here.

99. Accordingly it is paragraphs 174(a) and 180(a) which are of particular importance in this case, with CLP2 Policy ENV1 largely echoing the requirements of Framework paragraph 180(a). None of these seek to avoid all 'adverse effects' or any 'loss' of the LWS. As the appellant rightly points out, that higher level of protection is reserved for designated sites and irreplaceable habitats. This reflects a hierarchy of protection commensurate with the status and identified quality of the site or asset, in accordance with paragraph 174(a) of the Framework.
100. As such, and as the LWS is a non-statutory designation, there is no requirement to avoid any adverse effect or loss of ecological interest. Instead, paragraph 180(a) of the Framework explains that planning permission should be refused if the proposed development would cause "*significant harm to biodiversity*" (that cannot be avoided, mitigated, or as a last resort, compensated for). It is therefore necessary to form a judgement as to whether likely impacts could be considered 'significant'.
101. Some of the grassland on the site would clearly be lost if the proposed development was to proceed, but set against this the evidence is that without any management, the prospects for the grassland and orchids in a 'do nothing' scenario is that all is likely to be lost within 5 – 10 years, as noted above. In these circumstances I consider it relevant that the appeal proposal would provide an opportunity to retain, and manage an appreciable amount of the grassland and orchids, and secure their long-term future. Viewed in this way I share the appellant's view that "*significant harm to biodiversity*" would not be caused by the appeal proposal but, rather, any impacts would be minimised and net gains for biodiversity would be secured.
102. From my reading of the evidence the appeal proposal does not rely on BNG to justify the losses of grassland within the site, contrary to the views expressed by both EWT and Cllr Greenwood. Indeed the Place Services Report refers to the proposal using proportionate mitigation measures, including the restoration of habitats which could support the recovery of protected and priority species, to minimise impact on the site. It goes on to state that the bespoke compensation offered is consider sufficient and adequate and could be secured by a planning obligation or legal agreement attached to the grant of any planning permission. Place Services consider that these provisions would deliver net gain for the development and meet the requirements of the Framework. I share that view.
103. In addition to the general Framework requirement for developments to provide net gains for biodiversity, there is also a requirement in CLP2 Policy ENV1 to provide at least 10% BNG, and the Department for Environment, Food and Rural Affairs (DEFRA) metric³⁰ allows offsite proposals to be taken into account in that calculation. In that regard the appeal proposal provides the opportunity to create some 9.25ha of lowland meadow – a habitat type which the EWT accepts has declined by 97% in the last 50 years. The appellant argues that this should be seen as a significant benefit in the circumstances of this case, and no contrary evidence has been submitted on this matter.
104. Having regard to all the above points I conclude that the appeal proposal would not cause significant harm to biodiversity, but rather would provide an opportunity to improve the resilience of those ecological features (grassland and orchids) that give the site its ecological value. As such it would not have an adverse effect on

³⁰ CD 5.41

biodiversity, ecology and the natural environment. Accordingly I find no conflict with the relevant parts of CLP2 Policies ENV1 and OV2, nor with paragraphs 174(d), 180(a) and 182 of the Framework.

Main issue 4 – Whether the Council can demonstrate a 5-year supply of deliverable housing land

105. This matter was explored at the inquiry by means of a round table session (RTS) involving Miss Jones for the Council and Mr Pycroft for the appellant. The parties agree that the base date for this assessment is 5 July 2022 with the 5-year period running to 4 July 2027; that in accordance with paragraph 74 of the Framework the 5-year HLS should be measured against the housing requirement of 920 dwellings per annum (dpa), set out in the CLP1; and that a 5% buffer should be applied to this figure giving a 5-year total of 4,830 dwellings, or 966 dpa. It is further agreed that the 5-year housing requirement is not reduced by any oversupply accumulated since the base date of the Local Plan. The windfall allowance included by the Council in its 5-year housing supply is not contested.
106. The appellant's agreement on this latter matter is due, in large part, to the fact that the Council's historic delivery rates include completions on large windfall sites beyond existing settlement boundaries. The appellant contends that by rolling these figures forward the Council is effectively relying on other large sites not identified in the development plan and located beyond settlement boundaries - like the appeal site - coming forward, securing planning permission and delivering dwellings in the 5-year period. Because of this, the appellant further argues that restricting housing growth to the allocations, or to sites within the settlement boundaries, would not be consistent with the requirements of the development plan as a whole.
107. Although there is agreement on the 5-year housing requirement figure, there are differences between the 2 parties when it comes to the extent of the assumed 5-year supply. The HLS SoCG explains that the Council considers that at the base date it has a supply of 5,075 dwellings, which equates to a 5.25 year supply. This figure has, however, changed slightly during the course of the inquiry, following a review of the student accommodation schemes and a modest adjustment at the Lookers, Military Road site³¹. These adjustments increase the Council's supply figures to 5,181 units, which equates to a 5.36 year supply.
108. In contrast the appellant maintains that the Council has not provided the necessary clear evidence, required by the Framework and the PPG, to demonstrate that all of the components of the 5-year supply are justified. In particular the appellant has raised significant queries regarding purpose built student accommodation (PBSA); assumed build rates; and the reasonableness or extent of inclusion of some other sites. A total of 10 sites fall into the above 3 categories, amounting to a total of 1,457 dwellings which the appellant maintains should be removed from the housing supply. This would leave a figure of 3,617, which equates to a 3.74 year supply.
109. The main thrust of the appellant's arguments is that the evidence provided by the Council to justify a site's inclusion falls short of what could reasonably be considered "*clear evidence that housing completions will begin*" on the sites in question, in accordance with the Framework's definition of 'deliverable'. To support this stance the appellant made reference to other, recent appeal decisions – some determined by Inspectors and some by the Secretary of State (SoS) – in which the

³¹ As explained in CD 9.17

likes of completed proformas and emails from developers were not considered to provide adequate and sufficient evidence in those cases.

110. I consider these points in my assessment of the various sites in dispute, along with the evidence provided in each case. But I have also been mindful of the Council's position that what it is required to show, as detailed in the Framework, is that there is a 'realistic prospect' that housing will be delivered on the site in question within 5 years. The Council points out that neither certainty nor probability, nor any higher threshold, is required to be demonstrated. I have approached my assessments with this, and the other points detailed above, in mind.

Purpose Built Student Accommodation (PBSA)

111. At paragraph 68-034, the PPG explains that all student accommodation, whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus, can in principle count towards contributing to an authority's housing land supply. This has to be based on:

- the amount of accommodation that new student housing releases in the wider housing market (by allowing existing properties to return to general residential use); and/or
- the extent to which it allows general market housing to remain in such use, rather than being converted for use as student accommodation.

112. The PPG goes on to explain that these points will need to be applied to both communal establishments and to multi-bedroom self-contained student flats, and that several units of PBSA may be needed to replace a house which may have accommodated several students. It further advises that authorities will need to base their calculations on the average number of students living in student-only accommodation, using the published Census data, and take steps to avoid double-counting. The exception to this approach is studio flats designed for students, graduates or young professionals, that fully function as independent dwellings. These can be counted on a one-for-one basis.

113. A total of 4 sites in the Council's housing supply fall into this PBSA category: Meadows Phase 2; Colchester Centre/Hawkins Road; Colne Quay (Beyond the Box); and the Former Museum Resource Centre. Together, these comprise 1,848 units, made up of a total of 1,607 cluster flats³² and 241 studio units³³. The Council explained that as required by the PPG, it has used 2011 Census data to establish an appropriate conversion rate from student flats/bedspaces, to dwellings, calculated as 2.46 student bedspaces being equivalent to 1 dwelling.

114. This figure was not disputed by the appellant, and as it has been used by the Council without dispute in previous planning appeals, and as it seems to correlate well with similar figures used by other local authorities³⁴, I see no reason to take issue with it. Applying this factor to the cluster flats referred to above gives an equivalent dwelling figure of 655, and together with the 241 studio units gives a total of 895 dwellings within the Council's HLS, relating to student accommodation.

115. Whilst not disputing this figure of itself, the appellant argues that the Council has not robustly demonstrated that the 4 PBSA sites will release this number of dwellings currently occupied by students into the open market, and/or prevent that number of dwellings from being converted for use by students. The appellant

³² Flats with shared facilities

³³ Self-contained units

³⁴ See paragraphs 4.11 and 4.12 in CD 8.32

maintains that both scenarios depend on the growth of student housing needs not exceeding the amount of new student accommodation, but argues that the Council has not carried out the necessary analysis to justify the inclusion of these units and demonstrate how the 2 bullet points in PPG paragraph 68-034 have been satisfied.

116. Much information was put forward at the RTS and in subsequent correspondence³⁵, with many references given to the treatment of student accommodation in other local authority areas and by other Inspectors. I have considered all of this evidence, and have noted that the University of Essex (UoE) failed to respond on the topic of existing and future student accommodation needs at the time of the Strategic Housing Market Assessment Update in 2015. But notwithstanding this latter point there is no firm evidence to indicate that there were any concerns expressed by the University, the Council, or indeed the examining Inspectors, regarding provision for students at the time of preparation and adoption of CLP1 and CLP2.
117. I therefore consider it reasonable to assume that the agreed housing requirement figure of 920 dpa was accepted as catering for the anticipated growth of student numbers at the UoE at that time, which was growth to a student body of about 20,000 by 2025 and 25,000 by the end of the Local Plan period³⁶. I acknowledge that the UoE now appears to have somewhat grander expansion plans – with future growth to around 30,000 students by 2035³⁷ – and there is no dispute that these more recent plans mean that there will clearly be unanticipated growth in housing need. But I consider this to be a matter for a future review of the Local Plan and the housing requirement, and not for this appeal.
118. In summary, for reasons just given, I am not persuaded that it is correct to assume that the University's expansion plans, as they stood at the time of preparation and adoption of CLP2, had not been considered and taken account of in the agreed housing requirement, especially as the anticipated growth of the student population was clearly stated within CLP2, as noted above.
119. A second strand of the consideration of this topic is the question of whether the provision of PBSA would simply enable the University to absorb and cater for the growth in student numbers and not free up or prevent the occupation of market housing by students – or whether it would, indeed, free up market housing that would otherwise be occupied by students. On this point I note that the UoE only provides accommodation for foundation and first year students, and that there is an undersupply of such accommodation, currently running at some 350 bedspaces³⁸. It is reasonable to assume that this undersupply means that students who might otherwise qualify for a place in PBSA are having to find alternative accommodation in market housing at the present time.
120. Moreover, additional information submitted to the inquiry shows that some 220 to 250 existing student bedspaces are to be taken out of commission each year, for the next 6 years, as the University refurbishes its older tower blocks³⁹. This indicates to me that without the provision of additional PBSA there would be an even greater undersupply, and greater pressure on the wider housing market for occupation by students.

³⁵ See Docs 15, 16, 21 & 22

³⁶ Paragraph 6.70 of CLP2

³⁷ Paragraph 4(a) of Appendix EP1H to CD 8.30

³⁸ Paragraph 4.21 of CD 8.32

³⁹ Section 1 of Appendix EP1E of CD 8.30

121. Having regard to all the above points I am satisfied that evidence to support the inclusion of PBSA in the housing supply, as required by paragraph 68-034 of the PPG, detailed above, has been provided.

Disputed Sites

122. Chesterwell, Colchester – 215 dwellings in dispute. At the base date this site had full planning permission for 1,600 dwellings and was under construction, with 2 developers on site and with around 1,000 dwellings still to be completed. The Council's trajectory for this site, shown in its 2022 HLS Statement⁴⁰ assumes 90 completions in 2022/23, followed by 150 completions for each of the next 4 years, making a total of 690 dwellings. To support these figures the Council relies on past building rates for this site, recent fairly detailed projected completion figures from one of the developers concerned (Countryside), and a further email from the main developer (Mersea Homes), confirming that outline and Reserved Matters (RM) permissions have been received; that there are no constraints to limit development; and confirming the expected build rates detailed above.
123. The appellant disputes the expected completions, pointing out that the figure of 150 units has only been achieved once in the past, in 2017/18, and that completions since 2018/19 have dropped significantly. Excluding 2015/16, when only 7 units were completed, the appellant has calculated that over the next 6 years the build rate averaged just 95 dpa and considers that this would be a much more realistic annual figure going forwards. This would result in just 475 units in the 5-year period. The appellant argues that its figure is more realistic, having regard to recently achieved build rates on this site, and that the housing supply should accordingly be reduced by 215 dwellings.
124. However, in reviewing the past delivery on this site, the appellant has made no reference to the impact of the Covid 19 pandemic on the construction industry, nor has any reference been made to the fact that 146 dwellings were delivered in 2018/19 – only marginally below the 150 dwelling figure delivered in 2017/18.
125. I acknowledge that the Council appears to have been very optimistic in its evidence to the recent East Road, West Mersea appeal, in February and March 2022, when it considered that 152 units would be delivered at Chesterwell in 2021/22, based on past build rates at this site, whereas only 59 dwellings were in fact delivered in the 15 month period to 4 July 2022. That said, the fact remains that non-Covid affected build rates on this site of 150 and 146 dpa have been achieved in the recent past, such that the Council's assumed rates are not, to my mind, unreasonable.
126. The recently provided forecasts of completions from Countryside indicate that it expects to deliver 171 dwellings in a 25 month period from June 2023 to June 2025, equating to just over 80 dpa. As such, I do not consider the figure of 150 dpa from 2 developers to be unrealistic, having regard to past build rates on this site. I acknowledge that this would represent a high build rate in the context of other historic build rates set out in a table in the Council's 2022 HLS Statement, but as another developer in this table is shown as achieving a higher build rate I do not consider it to be unachievable.
127. Taking the above points into account, I am satisfied that the Council's assumed build rate can be considered realistic and I therefore see no good reason why its forecast figure of 690 dwellings on this site in the 5-year period should be reduced.

⁴⁰ CD 3.2

128. Tending-Colchester Borders Garden Community – 200 dwellings in dispute. This broad location is identified in CLP1 Policy SP8 for a new settlement that will eventually provide between 7,000 and 9,000 homes, with about 2,200 to 2,500 of these expected to be delivered by 2033. However, there has been some slippage with this proposal, with Miss Jones’ rebuttal PoE indicating that only 1,000 dwellings are now expected to be provided by each authority – 2,000 dwellings in total - within the plan period. This development features in the Council’s housing trajectory as delivering 100 dwellings in each of the last 2 years of the 5-year HLS period, but no planning application has yet been submitted.
129. This matter is complicated by the fact that a Development Plan Document (DPD) is required to be prepared before any application could be approved, and I understand that although a Regulation 18 consultation has taken on this DPD, this attracted objections including from the 2 main partners – Latimer (Clarion) and the UoE, both of whom are of the view that additional developable land is required, with their preference for this to be located to the south of the A133. But the evidence is that neighbouring town and parish councils are seeking to resist development in this part of the broad location, with this matter yet to be resolved.
130. As a result, it is apparent that significant work on this proposed development is required including additional reports⁴¹, with the appellant maintaining that the timescales or conclusions of these additional reports is not known. It is therefore not known what the timescales are for the production of the DPD, and whether or not the conflicting issues will be resolved by the Regulation 19 plan.
131. That said, the Council has indicated that preparation of the evidence base to support the DPD is well under way with the Regulation 19 consultation programmed for winter 2022, with adoption in 2023. The Council has also made reference to a Planning Performance Agreement (PPA), which it says covers both the DPD and the first hybrid application, whose detailed part is expected to authorise the development that features in the 5-year HLS. However, as the PPA is commercially sensitive no meaningful detail has been provided, and it is therefore difficult to form any firm view on likely progress on this matter and this development.
132. The Council also indicated that there are important financial issues still to be resolved, with a current shortfall in funding of £21.25 million. It explained that alternative funding sources are being investigated so as to avoid any delay, but confirmed at the RTS that this matter has not yet been resolved and alternative options, including changes to design were therefore being considered.
133. Whilst I do not doubt the Council’s commitment to this development, which is clearly a very important element of the Local Plan, it is apparent that significant planning and infrastructure work is still required before housing completions will begin on this site. The main written evidence relied on by the Council to demonstrate progress on this proposal is a letter from Mersea Homes, dated June 2022, containing just 5 brief and somewhat imprecise bullet points, together with a very brief email update in September 2022, which adds nothing meaningful. In my assessment the evidence provided in this case is lacking in clarity and falls short of the type of evidence referred to in paragraph 68-007 of the PPG, required to demonstrate that the site is deliverable. I therefore share the appellant’s view that these 200 dwellings should be removed from the Council’s 5-year HLS.

⁴¹ See paragraph 6.9 of CD 8.32 and pages 189-194 of Appendix EP3B to CD 8.30

134. Fiveways Fruit Farm – 190 dwellings in dispute. This is a site which was allocated for development in CLP2 and has featured in the Council's 5-year HLS on a number of occasions, dating back to the position statement of 2017, when a start was anticipated on the site in 2018/19. It was retained in the Council's position statements for the following 3 years – with development slipping to an anticipated start date of 2021/22 – but was then not included in the 2021 position statement. Following the submission in 2018 of an outline planning application for up to 420 dwellings by Mersea Homes and Hills Residential, outline planning permission was granted in May 2021 and the site has reappeared in the 2022 HLS Statement, with a total of 190 dwellings anticipated to be delivered in this 5-year period – 30 in 2024/25 and 80 in each of the next 2 years.
135. A letter from Mersea Homes dated 16 June 2022 indicated that pre-application work had been concluded and a first RM application would be submitted in the coming weeks; that there are no constraints to development on the site; and that it is a collaboration site which will have 2 developers working on it. An update was provided in a very brief email dated 21 September 2022, in which Mersea Homes stated that the first RM application was expected to be submitted within a matter of days. It was subsequently confirmed at the RTS that this RM application had been received, covering infrastructure (the spine road for the development), along with a masterplan and phasing details.
136. No RM applications for the residential development have yet been submitted, but it is clear from Condition 40 of the outline planning permission that the submission of a phasing strategy is an important and necessary first step in the overall development. I understand from the main parties' closing submissions⁴² that such phasing details have accompanied the recent RM application for the spine road, and although no timescales have been provided to accompany this phasing, which indicates that 140 dwellings are proposed in the first residential phase, I nevertheless consider this indicates that serious and meaningful work is ongoing on this project.
137. Because of this I find it difficult to accept the appellant's position that all 190 dwellings should be removed from the 5-year HLS, especially as it remains the case that up to 150 dwellings – in other words all of the first residential phase - can be occupied before the completion of the spine road and various other additional highway works. Moreover, the Inspector who determined the Maldon Road, Tiptree appeal in August 2020 noted that some of the new dwellings proposed for this site can be served from an existing road, and I share his view that this may reduce the lead time needed for those units.
138. Taken together, these points demonstrate that there is a realistic prospect that dwellings will be delivered on this site within the current 5-year period, but the submitted evidence is not sufficient to support the Council's full assumed figure of 190 completions in 5-year period. Like the Inspector in the Maldon Road appeal I therefore consider the Council's current housing trajectory for this site to be somewhat over-optimistic. Whilst acknowledging that the presence of 2 developers is likely to speed up delivery, there will still be the need a RM application to be submitted and approved, and for conditions to be discharged. I therefore consider it prudent to assume a further year's slippage for this development, meaning that 80 dwellings should be removed from the 5-year HLS.

⁴² Paragraph 73 of Doc 34 and paragraph 163 of Doc 35

139. Greenfield Drive, Great Tey – 30 dwellings in dispute. At the base date for the 5-year HLS period this site did not have planning permission, although outline planning permission was granted in August 2022, with the application having been submitted in September 2021. It falls into the (b) category of 'deliverable', set out in the Framework, and as such requires clear evidence that housing completions will begin on site within 5 years.
140. The evidence relied on by the Council comprises a letter from the developer, Mersea Homes, confirming that outline planning permission has been received, that a RM application will be submitted as soon as possible (within 6 months); that there are no constraints to development; and that 15 completions are expected in 2025/26, with a further 15 the following year. A small update provided in Miss Jones' rebuttal PoE is that the submission of a RM application is now anticipated in December 2022, following the appointment of consultants in September 2022.
141. The appellant contends that this does not constitute clear evidence of delivery, and I have noted the many examples cited by Mr Pycroft where he maintains that more detailed evidence than that put forward here has been rejected by other Inspectors and the SoS in other appeals⁴³. It seems to me, however, that although the likes of proformas and SoCG had been submitted and relied upon by the respective Councils in these other cases, many of these were rightly considered to be questionable. For example, in the Popes Lane, Sturry⁴⁴ appeal, the evidence indicates that most of the SoCG referred to were undated, and related to sites that had no planning permission of any kind. Moreover, in the vast majority of cases referred to by the appellant, the scale of the sites considered deliverable by the respective Councils, and subsequently rejected by Inspectors, well exceeded the fairly modest quantum of 30 dwellings proposed in this case.
142. I accept that scale of proposed development is not, in itself, a measure of deliverability. But in the particular circumstances of this case, where the evidence is that a RM application is soon to be permitted, and no constraints on development have been highlighted, I consider it quite reasonable to envisage that 15 dwellings could be delivered on this site in 2025/26, with the remaining 15 in 2026/27. I therefore consider that these 30 dwellings should remain in the 5-year HLS.
143. Former Lookers, Military Road - 20 dwellings in dispute. This is shown in the Council's 5-year HLS Statement as a development with full planning permission, comprising 54 units, which will be delivered over the final 3 years of the 5-year period. The appellant does not object to its inclusion as a matter of principle, but points out that as the permission is for 44 Use Class C2 sheltered housing apartments and 10 units in Use Class C3, the C2 units need to be assessed in accordance with guidance in PPG paragraphs 68-035 and 63-016a.
144. These paragraphs explain that whilst housing for older people, including residential institutions in Use Class C2, can be included in Councils' HLS, its contribution should be based on the amount of accommodation released in the housing market, using figures derived from published Census data. This points to a national ratio of 1.8 adults living in all households, and applying this ratio here means that the 44 C2 apartments equate to 24 dwellings. The appellant's case is therefore that this development would only provide the equivalent of 34 dwellings - 24 from the C2 units, plus the 10 C3 units - resulting in an overall deduction of 20 dwellings.

⁴³ See paragraphs 11.25 to 11.36 of CD 8.21

⁴⁴ CD 7.18 - App Ref APP/J2210/W/18/3216104

145. The Council has not directly responded on this matter, but has drawn attention to a second full application which has been submitted for this site, comprising 55 Use Class C3 units. It states that other than the Use Class changes the only differences between the 2 proposals are minor alterations to fenestration, and further adds that a S106 agreement is in place, that planning issues have been resolved, and that the grant of planning permission is imminent. The Council's position is therefore that all 55 units should now be included in the HLS. However, the appellant maintains that as the original planning permission now seems unlikely to be implemented, and as the new application is subject to objections, the site should be removed from the HLS in its entirety, resulting in a loss of 54 dwellings.
146. It is clear that a decision on this application has not yet been made, but I see no good reason to doubt the Council's assertion that as there are only minor differences between this latest scheme and one which had earlier received planning permission, a grant of planning permission is very likely to be forthcoming. In these circumstances I am satisfied that the evidence provided is robust, and I consider that these 55 units should remain in the HLS.
147. Colchester Road, West Bergholt - 13 dwellings in dispute. This is a small site allocated in the West Bergholt Neighbourhood Plan, with outline planning permission granted in November 2020 for 13 dwellings. The up-to-date evidence is that a condition relating to archaeology was partially discharged in August 2021, with the developer, Rose Builders, confirming that it anticipates starting on site and completing all 13 units in the 2023/24 financial year. I understand that the site is being advertised as the King's Orchard development on Rose Builders' website, with further information listed as being available 'early 2023'. Advertising boards are also present on the site, indicating that it has been acquired for development.
148. Although the developer has indicated its intention to complete all development in 2023/24 the Council has taken a cautious approach and has not included this site in the housing trajectory until 2025/26. This is only a relatively small development, and I do not consider that the existence or otherwise of a qualifying 5-year HLS should hang or fall on a site such as this. Nevertheless, the absence of any mention of the submission of a RM application could be seen as worrying. Certainly its absence means that it is hard to argue that this proposal meets the Framework and PPG requirements of demonstrating clear evidence of deliverability. For these reasons I consider it only right to remove these 13 dwellings from the HLS.

Summary

149. Drawing all the above points together, my assessment is that 2 of the disputed sites should be removed from the 5-year HLS – the Tending-Colchester Borders Garden Community and Colchester Road, West Bergholt; and that a reduced number of dwellings should be considered deliverable from the Fiveways Fruit Farm. Together, these changes mean that a total of 293 dwellings should be subtracted from the Council's assumed figure of 5,181 units, giving a revised supply figure of 4,888. This is marginally above the housing requirement figure, plus 5% buffer, of 4,830 dwellings, which means that the Council can demonstrate a 5.06 year HLS. I discuss the implications of this, later in this decision.

Main issue 5 – Planning obligations

150. The Council's fourth reason for refusal stated that the application failed to include a legally binding mechanism to secure a range of planning obligations required in association with the proposed development. As such, the Council maintained that

the proposal was in conflict with a number of development plan policies, as well as being at odds with other adopted guidance. However, to address these matters the appellant worked with the Council to produce a S106 agreement⁴⁵ which makes provision for a number of specific contributions and obligations, namely:

- A 'Parks and Recreation Borough Contribution' of £228,449.13;
- A 'Parks and Recreation Ward Contribution' of £424,262.68;
- A 'Community Contribution' of £597,550.85;
- A 'RAMS Contribution' of £137.71 per dwelling;
- A 'Healthcare Contribution' of £139,900;
- An 'Open Space Maintenance Sum' of £72,314.32;
- 30% of the proposed dwellings to be delivered as affordable housing units;
- A formula-based 'Education Contribution';
- The implementation of a 'Biodiversity Mitigation and Enhancement Scheme'; and
- An annual 'Residential Travel Plan Monitoring Fee' of £1,596.00, with a maximum of 10 payments.

151. All of the above contributions would be index linked, as appropriate. Having had regard to the above details, and the submitted Community Infrastructure Levy (CIL) Compliance Schedule⁴⁶, I am satisfied that all of these obligations meet the requirements of paragraph 57 of the Framework and Regulation 122 of the CIL Regulations 2010. I therefore conclude that the submitted S106 agreement would satisfactorily address the impact of the proposed development and that the appeal proposal would not be at odds with the relevant CLP1 policies, the relevant CLP2 policies which replace the CS policies, and the various elements of adopted guidance, all as mentioned in the fourth reason for refusal.

Other Matters

152. The only other topic not covered by the main issues, which was raised to any material extent, related to highways and traffic matters. In summary, many of the written representations had raised objections to the appeal proposal on the grounds that the proposed access would not be able to satisfactorily serve the proposed development, and that the development would exacerbate existing traffic problems in the area. Further objections on these grounds were made by interested persons who spoke at the inquiry, with local resident Mr Crisp, a retired Civil Engineer with highway design experience, raising a number of detailed points⁴⁷.

153. In particular he argued that under the Essex Design Guide⁴⁸ a large cul-de-sac as proposed here would need to be served by a 6m carriageway, with a 2m footway and a 3.5m cycle/footway, and that even dropping to a lower standard of road would still require a 5.5m carriageway with two 2m footways. He maintained that the existing available width would not allow either of these standards of road to be provided without property acquisition and demolition. He also argued that the appeal proposal made inadequate provision for cyclists.

154. Access is not a reserved matter and the parties confirmed that proposed details are given on a plan⁴⁹ contained within the Transport Assessment (TA). This shows that

⁴⁵ Doc 29

⁴⁶ Doc 30

⁴⁷ See Doc 10.

⁴⁸ CD 5.27

⁴⁹ No ADC2031-DR-001 Rev P4, entitled Proposed Access Junction Layout

Brook Meadows has a 5.5m wide carriageway at its junction with Maldon Road but that this narrows to 4.8m to the west of this junction. Under the appeal proposal this 4.8m section would be widened to 5.5m, and a 2m wide footway would be retained on the northern side of the road. In addition, the existing dropped-kerb crossings at the Maldon Road junction would be upgraded with tactile paving, and a new dropped-kerb pedestrian crossing area with tactile paving would be formed on Brook Meadows itself, just to the west of the Maldon Road junction. Visibility splays of 2.4m by 43m in both directions are shown at the Maldon Road junction.

155. I have noted the highways and transport concerns raised by interested persons, but have also had regard to the consultation comments from Essex County Council (ECC) as local Highway Authority (HA), summarised in the DOR. After considering the TA submitted with the appeal proposal the HA advised that the existing highway infrastructure provision would be sufficient to cater for both the existing traffic and that likely to be generated by the development. Accordingly, it raised no objections to this proposal, subject to the imposition of a condition requiring improvements to Brook Meadows to provide vehicle and pedestrian access to the site as shown in principle on the planning application drawings (which it confirmed could be achieved without the need for any property acquisition); an upgrade to the 2 bus stops which would best serve the proposal site; and a Travel Plan and Residential Travel Information Packs both in accordance with ECC guidance.
156. Whilst I understand and appreciate the concerns expressed by interested persons, no contrary transport assessment work was placed before me, such that I have no good reason to disregard the views of the local HA. I therefore conclude that the appeal proposal would be acceptable in highways and transport terms, and would not give rise to any unacceptable problems or impacts in this regard.

Weight to be given to development plan policies

157. As noted earlier, Section 1 of the Local Plan (CLP1) was adopted in February 2021, with Section 2 (CLP2) adopted in July 2022. Both plans are therefore up-to-date from the point of view of being adopted very recently. They will have been prepared against the backdrop of the Framework (the February 2019 version in the case of CLP1 and the current July 2021 version for CLP2), and there has been no suggestion that there are any inconsistencies between the adopted development plan policies and Framework policies.
158. It is the case, however, that development plan policies which are considered most important for determining an application have to be considered out-of-date – regardless of when the particular plan was adopted – in cases where the Council cannot demonstrate a deliverable 5-year HLS. I have considered this matter under the fourth main issue and have concluded that the Council’s deliverable HLS is marginally in excess of 5 years. In these circumstances, the adopted development plan policies I have referred to earlier carry full weight.
159. The emerging TNP is currently at Examination, following the conclusion of the Regulation 16 consultation period. As already noted, it is apparent that there are a number of significant unresolved objections which the Examiner is going to have to consider. In these circumstances I conclude that only limited weight should be given to the emerging TNP.

Benefits and disbenefits

160. Benefits. I have assessed the benefits likely to arise if the appeal proposal was to proceed, in the context of the 3 overarching objectives for achieving sustainable

development set out in paragraph 8 of the Framework. In terms of the economic objective it would provide some economic benefits as a result of the construction and subsequent occupation of some 221 new dwellings. The benefits during the construction phase would, however, only be for a temporary period and both these and the longer-term benefits which would arise from new residents' increased spend in the local economy, along with the Council Tax receipts and New Homes Bonus payments, would also be available with any similarly-sized development plan-compliant scheme. In these circumstances I consider that these economic benefits can only attract moderate weight.

161. The provision of 221 new dwellings, to include 66 affordable houses, would assist in furthering the social objective of sustainable development. In view of the Government's objective of significantly boosting the supply of housing, I consider it only right to attribute significant weight to the provision of the market housing, and in light of the fact that there is an under-provision of affordable housing across the Borough I share the Council's view that substantial weight should be given to the provision of 66 affordable housing units. My view, however, is that as these benefits would also arise from any similarly-sized development plan-compliant development, they need to be tempered somewhat in this case, where the proposed development would not accord with development plan policies.
162. With regards to the environmental objective, the Ecology SoCG does not refer to benefits, but rather confirms agreement that potential impacts on the Inworth Grange Pit LWS, protected species and biodiversity would be fully mitigated. Furthermore, although the proposals have demonstrated that they could achieve at least 10% BNG in accordance with the DEFRA metric, this is a requirement of CLP2 Policy ENV1 and so cannot reasonably be seen as a specific benefit of the proposal. That said, I do accept that the off-site provision of 9.25 ha of lowland meadow would be a benefit of the scheme, as would the protection of the ecology interest of the overall site - but as these would only arise as part of the necessary compensation I consider that they can only attract modest weight.
163. Finally on environmental matters I accept that formalising access to the appeal site by means of paths through the proposed POS and green infrastructure, where no formal paths currently exist, would be a benefit of the scheme, with the paths available not just to new residents of the proposed development, but also to other Tiptree residents. But as the presence of new development and the likely more formalised appearance of these open spaces would result in a much different walking environment and experience to that which walkers in the area currently have - albeit there is no current right to enter the appeal site - I consider that this benefit can only attract limited weight.
164. Disbenefits. The Council's spatial strategy, predicated on a commitment to plan positively for new homes and to significantly boost the supply of housing, is clearly spelled out in a number of adopted development plan policies, starting with SP3 in CLP1 and carried forward in SG1, SG2 and SS14 in CLP2. For reasons already given I consider that the appeal proposal would be in clear conflict with this spatial strategy, and this conflict with the policies in an up-to-date development plan has to carry substantial weight.
165. I have also concluded that there would be a moderate adverse impact on the landscape character of the appeal site, and on the visual experience of users of the nearby PRoW network, by reason of development of this scale on what is currently an undeveloped greenfield site and LWS. I consider this to be a disbenefit of the

appeal proposal which should carry moderate weight. In this regard the appeal proposal could not be said to protect and enhance the natural environment, and this aspect of the environmental objective of sustainable development is therefore not achieved. As a result the appeal proposal could not properly be considered sustainable development.

166. If there were overriding reasons why this development should proceed, I acknowledge that the somewhat contained nature of the appeal site and the proposed landscape strategy and strengthening of the vegetation on the site boundaries means that there would be limited impact on the wider area and wider landscape character. But in my assessment these points do not lessen the harmful impact I have identified on the character of the appeal site itself.

Summary, planning balance and overall conclusion

167. In summarising the matters set out above, the clear starting point is the fact that the proposed development would be in conflict with key policies in an up-to-date development plan, and would not represent sustainable development. Paragraph 12 of the Framework states that in such circumstances, planning permission should not usually be granted.

168. Furthermore, paragraph 15 of the Framework states that the planning system should be genuinely plan-led; that succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings. This is what the Council is seeking to achieve through CLP1 and CLP2. Moreover, although it can only carry limited weight at the present time for reasons already given, it is clear that the emerging TNP is seeking to take forward these aims and objectives at the more local Tiptree level.

169. I consider that substantial harm arises from the fact that the appeal proposal is plainly in conflict with the Council's spatial strategy set out in the adopted development plan policies to which I have already referred. This harm is added to, albeit moderately, by the adverse impact which the proposed development would have on the appeal site and on the experience and enjoyment of users of the nearby PRow. Whilst the appeal proposal would give rise to some benefits, as detailed above, my clear conclusion is that these benefits would not outweigh the harm I have just identified, and that the proposal should therefore not succeed.

170. I have had regard to all other matters raised, but find nothing sufficient to outweigh the considerations which have led me to conclude that this appeal should be dismissed.

David Wildsmith

INSPECTOR

APPEARANCES

FOR THE COUNCIL

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instructed by Karen Syrett, Lead Officer for Planning, Housing and Economic Growth, Colchester Borough Council (CBC)

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Mr Nigel Cowlin
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Miss Eleanor Moss
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Principal Planning Policy Officer, CBC

FOR THE APPELLANT

Miss Sarah Reid KC

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Director, Emery Planning

Associate Director, Aspect Landscape Planning Ltd

Director of Ecology, FPCR Environment and Design Ltd

Managing Director, Cerda Planning Limited

INTERESTED PERSONS OPPOSING THE PROPOSAL

Cllr Jonathan Greenwood BSc

Chairman of Tiptree Parish Council (TPC) and the Tiptree Neighbourhood Plan Steering Group (TNPSG)

Dr Annie Gordon BSc PhD

Conservation Planning Coordinator, Essex Wildlife Trust (EWT)

Mrs Louise Cooper

Local resident and Mental Health First Aider

Master Oliver Cooper

Local resident

Mr Dougal Urquhart

Chair of the Colchester Natural History Society

Cllr Roger Mannion

CBC Ward Councillor for Tiptree

Mrs Sue More

Chairman of the Friends of Tiptree Heath

Mrs Julia Magnay

Local resident

Miss Elodie Magnay

Local resident

Mr John Crisp BSc CEng MICE

Local resident

Mr Graham Lucas

Local resident and on behalf of other residents of Brook Meadows

Miss Rosalie Lucas

Local resident

Mrs Denise Collins

Local resident

Mr Michael Yore

Local resident

Mrs Audrey Rowe

Local resident

CORE DOCUMENTS

SECTION 1: APPLICATION DOCUMENTS	
CD 1.1	Delegated Officer Report
CD 1.2	Decision Notice
CD 1.3	Place Services report to CBC (Sue Hooton Comments 16 Feb 2022)
CD 1.4	RSPB response (22 Dec 2020)
CD 1.5	Natural England Response (2 Jan 2021)
CD 1.6	Essex Wildlife Trust response (2 Feb 2021)
CD 1.7	TNPSG response to Aspect Ecology (April 2021)
CD 1.8	TNPSG objection to Aspect Ecology (9 Feb 2022)
CD 1.9	TNPSG summary of objections (17 Aug 2022)
CD 1.10	Location Plan
CD 1.11	Addendum Delegated Report: Brook Meadows
SECTION 2: DEVELOPMENT PLAN	
CD 2.1	Colchester Local Plan – Section 1 Feb 2021
CD 2.2	Colchester Local Plan – Section 2 Jul 2022
CD 2.3	Tiptree Inset Policy Map
CD 2.4	Tiptree Jam Factory DPD – December 2012
SECTION 3: EVIDENCE BASE	
CD 3.1	Annual Monitoring Report 2021
CD 3.2	CBC 5-year Housing Land Supply Statement 2022
CD 3.3	Strategic Housing Market Assessment Update December 2015
CD 3.4	CBC Strategic Land Availability Assessment
CD 3.5	Adopted Affordable Housing Supplementary Planning Document (SPD) August 2011
CD 3.6	Open Space Sport and Recreational SPD July 2006
CD 3.7	Communities Facilities SPD July 2013
CD 3.8	Essex Coast RAMS SPD June 2020
CD 3.9	HRA Strategy document 2018-2038
CD 3.10	Developing a Landscape for the Future SPD 2013
CD 3.11	CBC Local Plan Topic Paper 6 Tiptree Final Topic Paper 6 – Tiptree
CD 3.12	CBC Emerging Local Plan Publication Draft Tiptree Policies Map June 2017
CD 3.13	Inspector's Report on the Examination of the Colchester Borough Local Plan 2017 – 2033 (Section 2) – 19 May 2022
CD 3.14	Settlement Boundary Review June 2017 (extracts)
CD 3.15	Sustainability Appraisal (extracts)
CD 3.16	Colchester Borough Local Plan 2017-2033 – Publication Draft June 2017 (extracts)
CD 3.17	Draft Schedule of Proposed Main Modifications to the Publication Draft Colchester Local Plan: Section Two – August 2021 (Extracts)
CD 3.18	Chief Planning Officers Letter – June 2022
CD 3.19	CBC and TPC Joint Examination Response – December 2020
CD 3.20	BS 42020:2013 - a code of practice for biodiversity in planning and development (British Standards Institute)
CD 3.21	BS 8683:2021 - process for designing and implementing biodiversity net gain – specification (British Standards Institute)
CD 3.22	Biodiversity Net Gain - Good practice principles for development (CIRIA, 2019)
CD 3.23	OAHN Study July 2015

CD 3.24	OAHN Study 2016 Update – November 2016
CD 3.25	CBC Section 2 Local Plan EiP Matter 9 Hearing Statement
CD 3.26	CBC Hearing Statement to Place Policies Matters 4-10
CD 3.27	Strategic Land Availability Assessment (2017)
CD 3.28	Strategic Housing Land Availability Assessment (SHLAA) TIP03-TIP40 (Neighbourhood Plan Evidence Base)
CD 3.29	SHLAA TIP41-TIP71 (Neighbourhood Plan Evidence Base)
CD 3.30	CBI Report
CD 3.31	Authority Monitoring Report 2021
CD 3.32	Authority Monitoring Report 2020
CD 3.33	Authority Monitoring Report 2019
CD 3.34	Authority Monitoring Report 2018
CD 3.35	Authority Monitoring Report 2017
CD 3.36	Biodiversity Metric 3.0 User Guide
SECTION 4: EMERGING DEVELOPMENT PLAN	
CD 4.1	TNP Reg 16 Edition July 2022
CD 4.2	TNP Strategic Environmental Assessment (SEA) Examiners Report 2019
CD 4.3	TNPSG Housing Topic Paper
CD 4.4	Regulation 16 TNP
CD 4.5	Examiners Report to Regulation 16 TNP
CD 4.6	SEA Tiptree Neighbourhood Plan August 2022
SECTION 5: LANDSCAPE AND ECOLOGY DOCUMENTS	
CD 5.1	Colchester Borough Landscape Character Assessment November 2005 Chris Blandford Associates
CD 5.2	Essex Landscape Character Assessment 2003
CD 5.3	Colchester Borough Local Wildlife Site Review 2015 Final Report November 2017 (part 1)
CD 5.4	National Character Area Profile 111 - North Thames Basin
CD 5.5	Landscape East Landscape character type extracts for Wooded Plateau Claylands & Wooded Hills and Ridges
CD 5.6	The Review of Countryside Conservation Areas in Colchester Borough 2005
CD 5.7	The Landscape Capacity of Settlement Fringes in Colchester Borough 2005
CD 5.8	Guidelines for Landscape & Visual Impact Assessment (GLVIA 3) – by the Landscape Institute and Institute of Environmental Management & Assessment, published by Routledge
CD 5.9	GLVIA 3 Statements of clarification
CD 5.10	Landscape Institute Technical Guidance Note 02/21: Assessing landscape value outside national designations (LI TGN 02/21)
CD 5.11	Landscape Institute Technical Guidance Note 06/19: Visual Representation of Development Proposals (LI TGN 06/19)
CD 5.12	PRoW definitive maps for the area
CD 5.13	Recent PRoW applications affecting the area
CD 5.14	Colchester Borough Historic Environment Characterisation Project 2009
CD 5.15	Nigel Cowlin: Independent Landscape & Visual Issues Advice 3 May 2022
CD 5.16	LVIA 7024.LVIA.003.VF July 2020
CD 5.17	LVIA 7024.LVIA.005.VF July 2021
CD 5.18	Design & Access Statement
CD 5.19	Masterplan Drawing 20-454-02 May 2020
CD 5.20	RPS Heritage Statement
CD 5.21	Inworth Grange gravel pits Concept Restoration Plan

CD 5.22	Townscape Character Assessment of Colchester, Tiptree, West Mersea & Wivenhoe, June 2006 – Chris Blandford Associates
CD 5.23	CBC Landscape Consultation Comments 074/20/CON, 11 Jan 2021
CD 5.24	CBC Landscape Consultation Comments 186/20/CON, 21 Apr 2021
CD 5.25	CBC Landscape Consultation Comments 428/20/CON, 7 Oct 2021
CD 5.26	The Conservation of Habitat and Species Regulations 2017
CD 5.27	Essex Design Guide 2018 V.3
CD 5.28	CBC Landscape Guidance Note LIS/A
CD 5.29	BNG Assessment Using DEFRA 3.0 – Technical Briefing Note (Aspect Ecology – an 2022)
CD 5.30	Additional Ecology Clarification and Information (Aspect Ecology – 14 Jan 2022)
CD 5.31	Biodiversity Metric 3.0 (scenario 1)
CD 5.32	Biodiversity Metric 3.0 (scenario 2)
CD 5.33	Biodiversity Metric 3.0 (scenario 3)
CD 5.34	Environment Bank – confirmation of offsetting (redacted)
CD 5.35	Indicative Ecological Enhancements Plan – 24 Jan 2022
CD 5.36	Inworth Grange Citations
CD 5.37	Original Ecological appraisal (Aspect Ecology- Nov 2020)
CD 5.38	SHRA Screening Matrix and Appropriate Assessment (Aspect Ecology -13 Nov 2020)
CD 5.39	Response to Ecology Consultation Comments (Aspect Ecology - March 2021)
CD 5.40	SHRA Screening Matrix and Appropriate Assessment (Aspect Ecology – 14 Jan 2022)
CD 5.41	BNG Assessment Using the DEFRA Biodiversity Metric 3.0 – Technical Briefing Note (Aspect Ecology September 2021)
SECTION 6: NATIONAL PLANNING POLICY AND GUIDANCE	
CD 6.1	Planning Policy Guidance
SECTION 7: APPEAL DECISIONS	
CD 7.1	Appeal Ref 3223010 - Land adjacent Barbrook Lane, Tiptree CO5 0JH
CD 7.2	Appeal Ref 3248038 - Land off Maldon Road, Tiptree, Essex
CD 7.3	Appeal Ref 3278575 - Land adjoining The Gables, CO5 0LU
CD 7.4	Appeal Ref 3285769 - Land at 102 East Road, CO5 8SA
CD 7.5	Appeal Ref 3139154 - Nipsells Farm Lodge, Nipsells Chase, Mayland, Essex
CD 7.6	Appeal Ref 3207626 - Land off Colchester Road, West Bergholt, Essex
CD 7.7	Appeal Ref 3004052 - Land off Broad Road, Hambrook
CD 7.8	Appeal Refs 2197532 & 2197529 - Audlem Road, Nantwich
CD 7.9	Appeal Ref 3227970 - Cox Green Road, Surrey
CD 7.10	Appeal Ref 3284485 - Station Road, Stallbridge, North Dorset
CD 7.11	Appeal Ref 3270721 - Westhampnett / North East Strategic Development Location, North of Madgwick Lane, Chichester
CD 7.12	Appeal Ref 3194926 - Woolpit
CD 7.13	Appeal Ref 3169314 - Woburn Sands, Milton Keynes
CD 7.14	Appeal Ref 2215771 - Home Farm, Church Hill, Pinhoe
CD 7.15	Appeal Ref 2212671 - Darnhall School Lane
CD 7.16	Appeal Ref 3180729 - Gleneagles Way, Hatfield Peveril
CD 7.17	Appeal Ref 3262600 - Loxley Works, Starrs Bridge Lane
CD 7.18	Appeal Ref 3216104 - Popes Lane, Sturry
CD 7.19	Appeal Ref 3238460 - Great Torrington

CD 7.20	Appeal Ref 3267168 - Carr Road and Hollin Busk
CD 7.21	Appeal Ref 3265861 - Sonning Common
CD 7.22	Appeal Ref 3256877 - Winterfield Lane, East Malling
CD 7.23	Appeal Ref 2222641 - Bath Road, Corsham
CD 7.24	Appeal Ref 3144248 - Rear of former Dylon International Premises, Station Approach, Lower Sydenham, London
CD 7.25	Appeal Ref 3292721 - Land off Spruce Close, Exeter
CD 7.26	Appeal Ref 3206569 - former Dylon International Premises
CD 7.27	Appeal Ref 3133319 - Land east of Knightcote Road, Bishops Itchington
CD 7.28	Appeal Ref 2205644 - Land off North Road, Glossop
CD 7.29	Case No CO/2639/2016 - Telford and Wrekin BC v SoS for Communities and Local Government - Land at Haygate Road, Wellington, Shropshire
CD 7.30	Appeal Ref 3245754 - Braiswick, Colchester, Essex
CD 7.31	Appeal Ref 3160474 - Land at West Street, Coggeshall
SECTION 8: INQUIRY DOCUMENTS	
CD 8.1	Council's Statement of Case - August 2022
CD 8.2	General SoCG
CD 8.3	Appellant's Statement of Case
CD 8.4	TNPSG - Cllr Greenwood - PoE 1 - General
CD 8.5	TNPSG - Cllr Greenwood - PoE 1 General - Summary
CD 8.6	TNPSG - Cllr Greenwood - PoE 1 Appendix B
CD 8.7	TNPSG - Cllr Greenwood - PoE 2 re Place Services Report
CD 8.8	EWT - Dr Gordon - PoE
CD 8.9	EWT - Dr Gordon - PoE - Summary
CD 8.10	Miss Moss - PoE
CD 8.11	Miss Moss - PoE - Summary
CD 8.12	Mr Cowlin - PoE & Appendices
CD 8.13	Mr Cowlin - PoE - Summary
CD 8.14	Mrs Scott - PoE
CD 8.15	Mrs Scott - PoE - Summary
CD 8.16	Miss Jones - PoE
CD 8.17	Miss Jones - PoE - Appendices
CD 8.18	Miss Jones - PoE - Summary
CD 8.19	Mr Robson - PoE
CD 8.20	Mr Robson - PoE - Summary
CD 8.21	Mr Pycroft - PoE
CD 8.22	Mr Pycroft - PoE - Summary
CD 8.23	Mr Goodman - PoE
CD 8.24	Mr Goodman - PoE - Summary
CD 8.25	Mr Goodman - PoE - Appendices
CD 8.26	Mr Goodman - PoE - Figures
CD 8.27	Mr Jenkinson - PoE
CD 8.28	Mr Jenkinson - PoE - Summary
CD 8.29	Mr Jenkinson - PoE - Appendices
CD 8.30	Mr Pycroft - PoE - Appendices
CD 8.31	Landscape SoCG
CD 8.32	Miss Jones - Rebuttal PoE
CD 8.33	Miss Jones - Rebuttal PoE - Appendices
CD 8.34	Mr Cowlin - Rebuttal PoE
CD 8.35	Mrs Scott - Rebuttal PoE

CD 8.36	Cllr Greenwood - Rebuttal PoE
CD 8.37	Mrs Scott - Supplementary PoE
CD 8.38	Mrs Scott - Supplementary PoE - Appendices
CD 8.39	Addendum Delegated Officer's Report - Brook Meadows
CD 8.40	CIL Compliance Document
CD 8.41	Ecology SoCG
CD 8.42	Site visit itinerary notes
CD 8.43	Site visit itinerary map mark-up
CD 8.44	TNPSG - Cllr Greenwood - Response to Ecology SoCG
CD 8.45	TNPSG - Cllr Greenwood - Comments on Draft Ecology SoCG
CD 8.46	HLS SoCG
CD 8.47	Draft Agenda for the RTS on 5YHLS
CD 8.48	Draft Inquiry timetable - Version 1 - 211022
CD 8.49	Extension of Time email exchange between Miss Moss and Mr Robson - March/April 2022
CD 8.50	Extension of Time email exchange between Miss Moss and Mr Robson - April/May 2022

DOCUMENTS SUBMITTED AT THE INQUIRY AND SHORTLY BEFORE

Document	1	Opening submissions on behalf of the Appellant
Document	2	Opening submissions on behalf of the Council
Document	3	Statement submitted by Mrs Louise Cooper
Document	4	Statement submitted by Master Oliver Cooper
Document	5	Statement submitted by Mr Dougal Urquhart
Document	6	Statement submitted by Cllr Roger Mannion
Document	7	Statement submitted by Mrs Sue More
Document	8	Statement submitted by Mrs Julia Magnay
Document	9	Statement submitted by Miss Elodie Magnay
Document	10	Statement submitted by Mr John Crisp
Document	11	Statement submitted by Mr Graham Lucas
Document	12	Statement submitted by Miss Rosalie Lucas
Document	13	Letter from GPS Ltd, dated 24 October 2022
Document	14	Letter from Mr Graham Lucas, with photographs - 26 October 2022
Document	15	Letter and Appendices from Mr Pycroft dealing with student housing in Sheffield - 20 October 2022
Document	16	Note from Miss Jones in response to Mr Pycroft's student housing submissions - 25 October 2022
Document	17	Essex Wildlife Trust submission - 21 April 2021
Document	18	Natural England submission - 19 September 2022
Document	19	Letter from Mr & Mrs Thyeson - 19 October 2022
Document	20	Cllr Greenwood response to the GPS Ltd letter of 24 October 2022, on behalf of TNPSG
Document	21	Additional Note from Miss Jones dealing with student accommodation and OAN, arising from the HLS RTS - 27 October 2022
Document	22	Response from Mr Pycroft to Miss Jones's Additional Note - 28 October 2022,
Document	23	Email from Sara Pennycook - 11 October 2022

Document	24	Appeal Decision 3248187 - Land at Harts Lane, Burghclere, Hampshire
Document	25	Email with Death Certificates of 2 of the appeal site landowners - 26 October 2022
Document	26	Note from the Council dealing with Appeal Decision 3248187 and the 2 Death Certificates
Document	27	Letter from the Granville Group on behalf of the landowners - 3 November 2022
Document	28	Final Schedule of suggested conditions - with comments
Document	29	Certified copy of the signed and completed S106 agreement
Document	30	Final, updated version of the CIL Compliance Statement
Document	31	Closing Statement made by Mrs Magnay
Document	32	Closing Statement made by Mr Lucas
Document	33	Closing Statement made by Cllr Greenwood
Document	34	Closing Submissions on behalf of the Council
Document	35	Closing Submissions on behalf of the Appellant