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Mr Andrew Seaman BA (Hons) MA MRTPI
Tiptree Neighbourhood Plan Examiner

22.204/MR
09 November 2022

Dear Mr Seaman,

Tiptree Neighbourhood Plan

I am instructed by Kler Group Limited to write to you in connection with the examination of the Tiptree Neighbourhood Plan.

Kler Group Limited submitted representations to both the Regulation 14 draft and Regulation 16 draft Neighbourhood Plans, the latter which I trust you have in the bundle of papers provided to you by Colchester Borough Council. From those submissions you will no doubt be aware that Kler Group Limited are a key stakeholder in the plan making process, with a legal interest in the site at Brook Meadows (site Tip03). That site has been the subject of a planning application for up to 221 houses and associated works, refused by Colchester Borough Council and the subject of a Section 78 Public Inquiry which closed yesterday.

I recognise that the deadline for the Regulation 16 consultation has now passed and that you are not presently inviting any further submissions. However, as part of the Public Inquiry there has been significant new evidence, which is central to the Neighbourhood Plan, which I respectfully ask you take in to account in examining the plan. This evidence was not available at the time the Regulation 16 draft Neighbourhood Plan was consulted upon, which warrants very careful consideration now.

The issue relates to the proposed Local Green Space designation of Brook Meadows at Policy Tip13. In the Public Inquiry, there was much discussion around the lawfulness of public access to the site (which has not been proven) and the process of preparing Policy Tip13 in the context of policy contained within both the NPPF and the PPG. Both Colchester Borough Council and Tiptree Neighbourhood Plan Group gave evidence on this issue.

The Regulation 16 draft plan is the first time the Local Green Space designation has been proposed for the Brook Meadows site. It is clear from the supporting text to Policy Tip13 that the designation arises from the recreational value the local community hold of the site.

In this context, the NPPF makes clear at paragraph 101 that Local Green Spaces should **only** (my emphasis) be designated when a plan is prepared, and be capable of enduring beyond the end of the plan period.

The PPG makes clear at paragraph 17 that designation does not in itself confer any rights of public access over what exists at present; and as a result, any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected. Paragraph 20 sets out that Local Green Space designation does not impose new restrictions or obligations on landowners. Paragraph 19 is particularly relevant, stating;

“A Local Green Space does not need to be in public ownership. However, the local planning authority (in the case of local plan making) or the qualifying body (in the case of neighbourhood plan making) should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.”

It is clear from the evidence provided to the Public Inquiry that the Brook Meadows site is not in public ownership, without public rights, and the landowners have confirmed that there is no intention to make the site available for public recreational use. In this regard I attach two letters submitted to the Public Inquiry to confirm the landowner’s position.

In accordance with the PPG, there is nothing to impose an obligation upon the owners to make the land available for recreational use given there can be no new restrictions upon the owners.

This is highly material to the consideration of the Local Green Space designation in Policy Tip13.

There is, in addition, a procedural point to consider. The evidence to the Public Inquiry is that the landowners have not been contacted regarding Policy Tip13 and the Local Green Space designation. The PPG is explicit that this is a **requirement** (my emphasis) of any such designation. Furthermore, the Neighbourhood Plan Group confirmed in evidence that no plan has been prepared for the Local Green Space designation, no contact has been made with the landowners, and consequently the landowners have been prejudiced by the process of neighbourhood planning in this instance.

As a result of the position that has now come to light, I would respectfully request that a plan for the Local Green Space be prepared, and the landowners be contacted to discuss the content of such a plan. Absent of this process, the neighbourhood plan would fail to accord with both the NPPF (paragraph 101) and the PPG at paragraph 19.

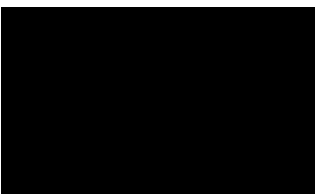
In addition, dependant on the outcome of that process it would seem appropriate for the significant objections around the Local Green Space designation to be heard orally, to ensure that the issues are given a fair hearing and provide you with the full position in examining the Neighbourhood Plan.

These are serious matters and I do hope that due consideration will be given to addressing the shortcomings which have now come to light.

I would be grateful if you could advise how you wish to proceed.

Kind Regards.

Yours sincerely



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