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## Appeal Decision

Inquiry held on 17 to 20 and 24 to 25 March 2026

Site visit made on 25 March 2026

by **O S Woodward MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8<sup>th</sup> May 2026

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### Appeal Ref: APP/A1530/W/25/3376495

#### Land North of Maldon Road, Tiptree, Colchester, CO5 0PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Bloor Homes (Eastern) against the decision of Colchester City Council.
  - The application Ref is 250435.
  - The development proposed is for up to 165 dwellings (including affordable housing), car park, public open space, landscaping, children's play area, sustainable drainage, infrastructure and all other associated infrastructure.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application is in outline with all matters reserved other than access, which is applied for in full. The agreed drawing set is the Site Location Plan<sup>1</sup>, Storey Heights Plan<sup>2</sup>, Land Use Plan<sup>3</sup>, Proposed Access and Puffin Crossing<sup>4</sup>, Proposed Maldon Road/Station Road Junction Improvements<sup>5</sup> and Proposed Foot/Cycle Connection (The Stables)<sup>6</sup>. There are also illustrative drawings, including the Masterplan<sup>7</sup> and Illustrative Landscape Masterplan<sup>8</sup>, which I refer to and consider as appropriate whilst bearing in mind their illustrative status.
3. A number of submissions were received during and after the Inquiry, as set out in Annex B. I am satisfied that in all cases the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required and there would be no prejudice to any party from my consideration of these documents. I therefore determine the appeal on the basis of the revised and additional documents.
4. A revised National Planning Policy Framework Consultation was released on 16 December 2025 and underwent consultation until 10 March 2026. We do not know what changes will be made in response to the consultation before it is adopted and it carries very limited weight at this time.

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<sup>1</sup> Ref: 24.2016.1000 Rev B, CD-A3

<sup>2</sup> Ref: 24.2016.2010 Rev A, CD-A39i

<sup>3</sup> Ref: 24.2016.2090 Rev A, CD-A39j

<sup>4</sup> Ref: 183315-004 Rev E, CD-A42 pdf 15

<sup>5</sup> Ref: 183315-006 Rev A, Ibid pdf 16

<sup>6</sup> Ref: 183315-005 Rev B, CD-A14b pdf 3

<sup>7</sup> Ref: 24.2016.1001 Rev M, CD-A37

<sup>8</sup> Ref: 24.2017.L101 Rev 02, CD-A38

5. Tiptree Parish Council (the Parish) were a Rule 6 Party at the Inquiry.
6. The application was the subject of four reasons for refusal by the Council. Reason for Refusal 4 was in relation to the effect of the proposal on local infrastructure. A final s106 Planning Obligation, dated 16 April 2026<sup>9</sup> (the s106) has since been provided. The s106 secures:
  - an Essex County Council (ECC) monitoring fee;
  - education contributions for facilities within three miles of the appeal site;
  - a library contribution for upgrading and enhancement of Tiptree Library;
  - a healthcare contribution for improvements to Tiptree Medical Centre or other local NHS facility;
  - a community contribution to install air conditioning at the Tiptree Community Centre and/or works to the Tiptree Scout Hut and/or works to the St Luke's Church and/or works to United Reformed Church;
  - an archaeological contribution for the display of archaeological discoveries on the appeal site, and archaeological information contribution for the integration of the archaeological information into the Council's Historic Environment Record;
  - a parks and recreation contribution for the enhancement of facilities at Leisure World Tiptree, and a new football pitch and facilities within Tiptree and/or improvement works at Grove Lake and/or improvement works at Warriors Rest;
  - the provision of open space and amenity areas and the establishment of a management company and contributions for their ongoing maintenance;
  - 30% of the proposed dwellings to be affordable housing, at a split of 75% affordable rented and 25% First Homes, and associated plans and schemes to secure the location and size of the dwellings;
  - a Biodiversity Net Gain (BNG) monitoring fee to monitor the appeal site and the Habitat Management and Monitoring Plan (HMMP);
  - a Travel Plan monitoring fee;
  - the provision of one car club parking space; and,
  - a management plan for the Tiptree Heath Primary School car park to be provided on the appeal site.
7. The Council's CIL Compliance Statement<sup>10</sup> sets out the detailed background and justification for each of the obligations. This is agreed between the main parties and I see no reason to disagree. I am therefore satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended) and at Paragraph 57 of the National Planning Policy Framework (the Framework), and I have taken them into account. Reason for Refusal 4 is not, therefore, in dispute. I return to matters of weight and detail of the s106 throughout my Decision as appropriate.
8. In addition, following the submission of the appeal, it has become common ground that the effect of the proposal on the integrity of the Essex Coast European Protected Sites (EPS)<sup>11</sup> could be appropriately mitigated by a payment towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy to

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<sup>9</sup> ID26

<sup>10</sup> CD-B16

<sup>11</sup> Abberton Reservoir Ramsar, Abberton Reservoir Special Protection Area (SPA), Blackwater Estuary Ramsar, Blackwater Estuary SPA and Essex Estuaries Special Area of Conservation

fund strategic off-site measures to mitigate any increased use of the sites. Similarly, a payment towards conservation management and to provide each dwelling with a five-year Essex Wildlife Trust (EWT) membership would appropriately mitigate the effects of the proposal on the Tiptree Heath Site of Special Scientific Interest (SSSI). The EWT has confirmed that these measures are acceptable<sup>12</sup> and I see no reason to disagree. These payments have been secured in the s106 and therefore these matters, as they relate to Reason for Refusal 3 of the decision notice, were not in dispute at the Inquiry.

## Main Issues

9. The main issues are:
- the effect of the proposed development on the character and appearance of the area, including on landscape character and coalescence; and,
  - whether or not the appeal site is an appropriate location for development of this type, having regard to local and national planning policy and guidance.

## Reasons

### *Character and appearance*

#### Existing

#### The site and surroundings

10. The appeal site is a nondescript field. It is pleasant but no more than that. To the south is the existing built form of Tiptree, including houses along Maldon Road and Peakes Close. Peakes Close runs into the field, is prominent and presents an untidy urban edge to that part of the appeal site. To the north and north east boundaries are wooded areas which lie within the Inworth Grange and Brook Meadows Local Wildlife Site (LWS). Along Maldon Road is a hedgerow. This is a typical hedge, quite low, with gaps, although of good health. There is also an existing agricultural entrance from Maldon Road with a gate, which creates a further gap in the hedgerow.
11. There is a recent Landscape Character Assessment from 2024<sup>13</sup>. It identifies key characteristics for the area<sup>14</sup>, which include a predominantly agricultural landscape with low hedgerows, networks of Public Rights of Way (PRoW) providing access to the countryside, and a predominantly rural landscape albeit with some influence from Tiptree. Key sensitivities of the landscape that are identified include the rural character<sup>15</sup>. All of these apply to the appeal site. However, these characteristics are not particularly interesting and are commonplace, as also found by the Inspector for the 2020 appeal<sup>16</sup>.
12. The site, by being undeveloped and open, provides a contrast to the surrounding built form. However, whilst a positive aspect of the appeal site, this is only to a limited degree because of the prominence of the existing built form. There are three PRoW which run across the site and nearby. They afford clear views across the site where they cross the field. However, the appeal site is only ever

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<sup>12</sup> CD-F32

<sup>13</sup> CD-E19

<sup>14</sup> Pdf 379, Ibid

<sup>15</sup> Pdf 384, Ibid

<sup>16</sup> DL92, CD-F8

appreciated in the context of the existing built form, in particular Peakes Close and Maldon Road. The site is visually largely self-contained not only by the existing development but also the wooded areas of the LWS to the north and east, and any views from the PRow as they run away from the site are quickly filtered and/or blocked by the trees. This means that the contribution of the appeal site to the wider landscape is negligible.

13. Overall, the appeal site has moderate intrinsic value as an agricultural field but no distinguishing features which raises it above the ordinary. In fact, the presence of the intrusive existing built form and the visual containment limit its value, and it is of no more than average character and appearance, including with regard to landscape.

#### Coalescence

14. There was some discussion at the Inquiry regarding whether or not Tiptree and Tiptree Heath are separate settlements. In this regard, Tiptree is a large village with a dense urban grain. The village sprawls away from the main arterial routes in all directions. The individual plots for houses are generally fairly small. It has large commercial areas such as supermarkets and the Tiptree Jam complex. Tiptree Heath is a small village which largely comprises ribbon development along Maldon Road, West End Road and Priory Road. The development is less tightly defined, with dwellings sitting in larger plots. There are several locations where the surrounding agricultural land and rural character directly influence the village, particularly along the open aspects north of West End Road and from the sparse development along Priory Road. The two settlements are therefore of distinct character and feel.
15. In addition, in policy terms the distinction is clear. The Tiptree Neighbourhood Plan 2022 – 2033, March 2023 (the TNP) doesn't include all of Tiptree Heath thus indicating that it is considered to be a separate settlement, and Paragraph 6.214 of Colchester Local Plan 2017 – 2033 Section 2, adopted July 2022 (the LPP2) doesn't explicitly call Tiptree Heath a separate settlement but it does refer to a separate cluster of houses to the south west of the main village. Policy TIP01 is extremely clear about the importance of the separation of the two settlements, and in addition Paragraph 5.1 of the TNP explicitly states that the boundary of the neighbourhood plan was specifically redrawn to exclude Tiptree Heath to preserve the rural nature of the hamlet.
16. The settlements are therefore distinct. However, where one turns into the other is opaque. There is no gap in development between the two. There is a small undeveloped section to the south side of Maldon Road at its junction with Hall Road, but in this area the northern side of the road is occupied by The Ship Inn and car park. There is therefore continuous built form either south or north, or both, of Maldon Road between the two villages. In addition, the houses along the south side of Maldon Road opposite the appeal site are like those of Tiptree Heath in being ribbon development, but also those of Tiptree because they are closely spaced.
17. There is therefore no clear gateway or sense of leaving or arrival into Tiptree from Tiptree Heath or vice versa. Road signs are inconsistent, and along Maldon Road there is only an entry to Tiptree sign, which sits further to the west near the junction with Simpsons Lane and within an area which is within Tiptree Heath.

The Ship Inn pub and car park act as a marker to a degree, particularly as combined with the road junction, but No 142 Maldon Road combined with the continuous development to the south of Maldon Road largely negate this effect. Inter-visibility between the settlements exists along Maldon Road adjacent to the appeal site, in both directions.

18. There is, however, some open land, on the appeal site, between the two settlements. Views across the site from Maldon Road to the trees of the LWS behind are possible. There is a Townscape Character Assessment from 2006<sup>17</sup> which relates to the existing built-up areas and not to the appeal site. Nevertheless, the document identifies a key view<sup>18</sup> from Maldon Road over the western part of the appeal site, which has been identified because it is a view out from a settlement to the surrounding countryside<sup>19</sup>. In addition, a separate Landscape Character Assessment from 2024<sup>20</sup> finds that it is important to carefully consider any new development at the junction between Tiptree Heath and Tiptree to avoid the coalescence of what it describes as these distinct settlements<sup>21</sup>.
19. However, the open views across the appeal site and are in the context of the prominent housing along Peaks Close. In addition, this gap is only where there is existing development to the south of Maldon Road. Similarly, the hedgerow within the appeal site on the north side of Maldon Road provides some rural character and separation of the settlements but is tempered by the existing development to the south, and visibility of Peakes Close<sup>22</sup> and No 142 Maldon Road.
20. There is a wedge of open land to the north of Maldon Road, including the appeal site and also further fields to the west behind the Ship Inn. However, the fields behind The Ship Inn are only clearly visible from a very short section of Maldon Road. The two open areas, ie the appeal site and the fields behind the pub, are split by No 142 Maldon Road and its long rear garden in the middle. Either open space is always appreciated only in the context of the existing built form which is continuous between the settlements along Maldon Road.
21. Paradoxically, however, the limited separation between the two settlements and the lack of visibility of the fields behind the pub accentuate the importance of the appeal site, because, inasmuch as there is a meaningful gap between the settlements, it is the appeal site which provides it. That the appeal site is the only open land which performs this function is an important part of its character and also of the setting it provides to both Tiptree and Tiptree Heath and their relationship to one another. Nevertheless, although the appeal site is the important contributor to the remaining separation of the settlements, this much be considered in the context that the separation *per se* has been diminished, lessening its overall importance.
22. I note here that whilst it is true that the appeal site is not within an identified strategic gap or similar designation in either the North Essex Authorities' Shared Strategic Section 1 Plan, adopted February 2021 (the LPP1) or the LPP2, this

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<sup>17</sup> CD-E20

<sup>18</sup> Pdf 8, CD-H7b

<sup>19</sup> Paragraph 3.4.2, pdf 280 – CD-E20

<sup>20</sup> CD-E19

<sup>21</sup> Pdf 387, Ibid

<sup>22</sup> Eg Plate 4, pdf 16 – CD-H2a

does not provide weight either way because there are no identified strategic gaps in any of those documents<sup>23</sup>.

### Assessment

#### The site and surroundings

23. The built form is yet to be confirmed. However, an illustrative masterplan has been provided<sup>24</sup> and any development that came forward would need to be of similar density and layout given the size of the areas allocated for built development and the numbers of dwellings proposed. It is indicated that the dwellings would wrap around Peakes Close. They would be of moderate density with similar plot sizes to Tiptree village. It would be of similar appearance and character to Tiptree, rather than Tiptree Heath. The proposal is clearly intended to be an extension to Tiptree not Tiptree Heath because the built form would be directly adjacent to Tiptree. This is therefore a sensible design proposal in this regard.
24. The proposal would cause some intrinsic harm from development on a field in a location where rural and agricultural landscape is a key characteristic. However, this would be limited because of the nondescript appearance of the field and its limited contribution to the wider landscape because it is largely self-contained. There would be some harm to the users of the PRoW as they traverse the site but this is only over a short distance, and the wider open landscape to the north and west would remain. These PRoW are also already experienced largely within the context of existing built form and the noise from Maldon Road in any event.
25. The detail of the built form as it fronts onto the proposed open space is not yet known. However, it would be with houses facing onto the open space, rather than turning their backs on it as is the existing situation with Peakes Close. There is no reason to believe that this would not become a successfully designed and attractive appearance, and nor do I have any reason to believe that the overall detailed design could not be attractive and of high quality and achieve an optimal use of the appeal site in accordance with Paragraph 130 of the Framework.
26. The harm would therefore only be limited. Nevertheless, there would be harm to the character and appearance of the area, including on landscape character. The proposal therefore fails to comply with Policy SP7 of the LPP1, Policy DM15 of the LPP2 and Policy TIP02 of the TNP, which require high quality design which respects the character of the site and its surroundings. It fails to comply with Policy ENV1 of the LPP2, which states that development will only be permitted where it would not adversely affect the intrinsic character and beauty of the countryside. The proposal also fails to comply with Policy OV2 of the LPP2, which states that residential development proposals on sites outside of settlement boundaries, as is the case for the appeal proposal, must respect the character and appearance of landscapes.

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<sup>23</sup> Agreed under XX

<sup>24</sup> Ref: 24.2016.1001 Rev M, CD-A37

## Coalescence

27. The proposal includes a gap to the western part of the site. It has been confirmed<sup>25</sup> that this would be 45m at its narrowest point, widening to approximately 80m nearer Maldon Road. Overall, the proposal is for only 55% of the appeal site to be developed, with the remainder largely being open space. This is a material difference to the previous proposal for the 2020 appeal, which proposed built form to within approximately 5m of the western boundary and over much more of the appeal site. That gap was found to be tokenistic by the previous Inspector<sup>26</sup>. In addition, the hedgerow would be removed which would open up views across the site compared to as existing, albeit only to a limited degree because the hedgerow is low and has some gaps as existing. Lastly, there would be a significant set back from Maldon Road of 40m<sup>27</sup>, further opening up views through and across the appeal site and visual linkages to the countryside.
28. There would be an entrance road and some highways paraphernalia in some of the set back, but the road would be at grade and the paraphernalia would be limited. There would also be an orchard but this would only provide partial visual screening because the trees would necessarily need to be kept short. I do not view the wider open area indicated as 240m to be particularly relevant because this goes across the rear garden of No 142 Maldon Road and is difficult to appreciate in one location in any event because of the screening from the Ship Inn and that Maldon Road bends southwards. Overall, whilst a gap would be maintained, would be meaningful, and there would still be the opportunities for views through to the woodland beyond, but these would still be truncated from as existing.
29. Importantly, however, the gap would be for maintained open space. The full details are not before me but it would, though, inevitably have the appearance of a managed park, as opposed to rural open land. Even areas of wildflower meadow and grassland would be obviously managed and controlled and would not have a rural character or appearance. This would be exacerbated by the loss of the existing hedgerow. Therefore, whilst open space would be kept, to a degree, there would be a significant erosion of the perception of the separation of settlements, with the last meaningful remaining gap being lost. The proposal would read as development in Tiptree as reinforced by the building typologies, followed by open space, followed by the start of Tiptree Heath, with the open space being viewed as part of both settlements and none.
30. There would, therefore, be coalescence despite open land being retained. The harm caused by this would be tempered to a degree by the fact that the settlements are already partially coalesced and the lack of clear gateways or a specific point where there is a change in character. Nevertheless, and particularly considering that the appeal site is the only remaining meaningful contributor to the separation of the settlements, the level of coalescence would be harmful.
31. The proposed development therefore fails to comply with Policies SP3 and SP7 of the LPP1, which require that proposals ensure existing settlements maintain their

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<sup>25</sup> ID6

<sup>26</sup> DL100, CD-F8

<sup>27</sup> The precise measurement of this set back was discussed at the Inquiry but is not material to my consideration, which is based on a combination of the approximate depth of the set back and qualitative considerations as set out in paragraph 28

distinctive or local character and (for SP3 only) avoid coalescence. It fails to comply with Policy ENV1 of the LPP2, which requires that there not be an adverse impact of the relationship between and separate identities of settlements. It also fails to comply with Policy TIP01 Ac of the TNP, which states that proposals outside the defined settlement boundary must not result in the harmful coalescence of Tiptree Heath and Tiptree.

### *Principle*

32. Policy SP3 of the LPP1 sets out the spatial strategy for the area. Existing settlements, including development both within and adjoining them, are to be the focus for growth, in proportion with the scale of the settlement. Tiptree is an identified Rural District Centre<sup>28</sup>, one of three and the second tier of settlement in the hierarchy. Policy SG1 of the LPP2 sets out the spatial strategy for the Colchester area detailing how Policy SP3 of the LPP1 is to be implemented at the Colchester city spatial area. Policies SG1 and SG2 expect growth to be located at the most accessible locations in accordance with the settlement hierarchy. This includes Sustainable Settlements, such as Tiptree.
33. Tiptree is not only a location identified for growth in both LPP1 and LPP2 but is intrinsically a large village with a range of services and facilities, including two large supermarkets, a library, community centre, gym, a leisure centre, further retail units and several schools. The appeal site is accessible to these, with the centre of Tiptree approximately one mile to the north east and accessible by foot along pavements. The bus stops directly by the site on Maldon Road serve route 75 which is an hourly service to Colchester and Maldon, as well as a school bus route. Two further routes, Nos 79 and 91, can be reached further into Tiptree, but still within a reasonable walking distance<sup>29</sup>.
34. The proposed moderate sized housing development would therefore be adjacent to a settlement identified for growth, of an appropriate scale for the settlement, and is in an accessible location that would not render future residents reliant on the car for journeys or to access many services and facilities. The proposal is therefore in broad accordance with the spatial strategy.
35. However, this high level spatial strategy is subject to important qualifications. The LPP2 has a Tiptree specific policy, Policy SS14, which defers detailed consideration of the spatial strategy for Tiptree to the (at the time) forthcoming Tiptree Neighbourhood Plan. When it was 'made', Policy TIP01 of the TNP set out the spatial strategy for development to be focused within the settlement boundary (SB) or two site allocations. In addition, Policy SG1 requires development in the countryside, which applies to the appeal site because it is a field outside the SB, to comply with Policy OV2 of the LPP2<sup>30</sup>. As set out above, the proposal fails to comply with this policy. The supporting text to this policy<sup>31</sup> makes it clear that the Council expects very limited development in the countryside. The proposal is therefore in broad conflict with these elements of the spatial strategy.
36. Allowance is made in both Policy SP3 of the LPP1 and TIP01 of the TNP for development outside SBs or adjacent to existing settlements subject to certain

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<sup>28</sup> Paragraph 3.4, CD-D1

<sup>29</sup> Public Transport Routes Ref 183315-FIGURE 8 Rev A – pdf 12, CD-A14b

<sup>30</sup> It also mentions Policy OV1 but that is not relevant to the appeal proposal

<sup>31</sup> Paragraph 6.242, LPP2 – CD-D2

conditions. A development the scale of the proposal on land outside the SBs can therefore comply with these policies, in-principle. Development of part of the appeal site could also, in-principle, be acceptable in these regards. However, the conditions include that development maintains the distinctive character of settlements and avoids coalescence. As set out above, this is not achieved by the proposed development.

37. Policy SS14 is supported by a policy map<sup>32</sup> which includes three arrows indicating preferred directions for growth. One of these arrows points directly over the central and eastern parts of the appeal site. It is self-evident that the growth was not intended to include the LWS behind the appeal site, and common sense that such an arrow is not only intended to indicate growth directly underneath it. The arrow instead indicates a broad direction of growth, which includes at least part of the appeal site. However, Policy SS14 also clearly defers consideration of the detail of how growth will be accommodated in Tiptree to the, at the time, forthcoming TNP, and so this does not undercut the clearly set-out protection of the distinct characters of Tiptree and Tiptree Heath by the avoidance of their harmful coalescence as set out in the TNP. Therefore, this does not lessen the weight that I apply to the Policy TIP01 conflict I have identified.
38. Policy OV2 of the LPP2 is predicated on the assumption that areas outside SBs are isolated in location and rural in character<sup>33</sup>. The appeal site is not isolated and only partially rural in character, and the very strict controls of development in Policy OV2 should be seen in this context. Nevertheless, as identified in the character and appearance main issue above, there would be some harm to the landscape character of the site and wider area, which conflicts with Policy OV2 on a strict application of the policy.
39. It follows that the proposal fails to comply with Policy TIP01 of the TNP, which states that residential development outside the SB will be permitted but only where it is in accordance with Policies SG1 and OV2 of the LPP2 in respect of development in the countryside (part Ab) and that there be no harmful coalescence between the built-up area of Tiptree and Tiptree Heath (Ac). The proposal also therefore fails to comply with Policy SS14 of the LPP2, which directly cross-refers to the TNP and by extension Policy SG2 of the LPP2, which directly cross-refers in turn to Policy SS14.
40. Therefore, the appeal site is not an appropriate location for development of the type proposed, having regard to local and national planning policy and guidance.

## **Other Matters**

### *Housing land supply*

#### Disputed sites

41. The housing need as calculated using the Standard Method (SM) is 1,293 dwellings per annum (dpa). In addition, a 5% buffer applies. The Council's position is that it can demonstrate a deliverable supply of housing of 4,576 dwellings, equating to a 3.37-year supply of housing land. The appellant's position is that the deliverable supply is 3,669 dwellings, equating to a 2.70-year

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<sup>32</sup> CD-D4

<sup>33</sup> See Paragraph 6.242, Ibid

supply of housing land.<sup>34</sup> The reasons for the difference are disputes over eight of the supply sites<sup>35</sup>, which I consider below.

42. It is accepted by the Council<sup>36</sup> that Site 1<sup>37</sup> was delivered before the agreed base date<sup>38</sup>. It had previously been included in the Council's supply for the period 2025/26 to 2028/29<sup>39</sup> because the Council had not been notified of the completion. Now that the true position has come to light, it should be accurately reflected in the housing land supply calculation. There is no risk of double counting because the Housing Delivery Test (HDT) figure that is being relied upon for this appeal only covers the period up until 2023<sup>40</sup>. I therefore remove the 206 homes from the supply.
43. The planning permission for Site 2<sup>41</sup> was granted at appeal after the base date and did not, therefore, have permission as of the base date. I accept that evidence regarding sites should be accepted up to the Inquiry. However, the principle of whether or not to include a site in the supply in the first place must be made with regard to the base date. Otherwise, inconsistencies will arise with the overall calculations of supply and need. This approach is consistent with two provided appeal decisions<sup>42</sup>. I therefore remove the 203 homes from the supply.
44. There is no dispute regarding the western part of Site 3<sup>43</sup>. The remainder of the site does not have a planning permission and nor is it allocated in the adopted Local Plan. I acknowledge that Category b) in the Framework is not a closed list. However, the definition of 'deliverable' states that there must be a realistic prospect of housing delivery. A site, such as this one, which does even fall into Category b) must, logically, require at least clear evidence of housing completions within five years. In this case, there is no firm evidence of the imminent submission of a planning application<sup>44</sup> and the draft allocation in the eLP has not yet been tested at an Examination in Public. That the same developer as for the western part of the site has an option on the remainder of the site is encouraging but the planning process could easily be the subject of delays. I therefore remove the 100 homes from this part of the site from the supply.
45. Site 4<sup>45</sup> has outline planning permission. A housebuilder is in control of the site and is progressing towards making the reserved matters submission. The housebuilder has confirmed its intentions to progress the site and that there are no technical constraints that cannot be overcome<sup>46</sup>. With the benefit of the outline permission, I view this as clear evidence. The assumption of delivery beginning in 2027/28 is challenging but realistic given that the reserved matters application is already in train. The adoption of an average of 50 dpa delivery rate is in

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<sup>34</sup> CD-B11

<sup>35</sup> Table SOCG2, Ibid

<sup>36</sup> At RTS

<sup>37</sup> R/O Colchester Centre, Hawkins Road

<sup>38</sup> 1 April 2025

<sup>39</sup> Pdf 28, 9<sup>th</sup> row - CD-E21

<sup>40</sup> SoCG re 5 Year Housing Land Supply – paragraph 2.5, CD-B11

<sup>41</sup> Defence Support Group (DSG), Flagstaff Road

<sup>42</sup> DL14 to 16, CD-G8 and DL67, CD-G14

<sup>43</sup> Dawes Lane, West Mersea

<sup>44</sup> The potential submission date of late 2026 in CD-G1 relies upon progress in the eLP, and is otherwise unsubstantiated

<sup>45</sup> Elms Farm, Messing Road

<sup>46</sup> CD-G3

accordance with the average legacy delivery rates as set out at page 20 of the Council's Five Year Housing Land Supply Statement 2025<sup>47</sup>. I therefore retain the 150 homes in the supply.

46. Site 5<sup>48</sup> is a large multi-phased site with outline planning permission for 420 homes. A reserved matters application for a spine road has also been approved and is under-construction. A reserved matters application for the first phase of residential development, totalling 92 dwellings<sup>49</sup>, was recently approved. Two housebuilders are operating on the site and have stated they are preparing the next reserved matters submissions<sup>50</sup>. The assumed delivery rate of 50 dpa is in accordance with average legacy delivery rates, as set out for Site 4 above, and would likely be even more achievable with two housebuilders operating on the same site. The recently approved reserved matters application, active presence of two housebuilders, and no substantiated constraints, all provide clear evidence of delivery of 150 homes as counted by the Council. I therefore retain the 150 homes in the supply.
47. Site 6<sup>51</sup> has outline permission for up to 225 homes. No reserved matters application(s) have yet been submitted and nor has any firm evidence been provided of a timeline for submission. Although negotiations have begun no housebuilders are yet on board<sup>52</sup>. This is a clear difference to Sites 4 and 5. I agree with the Council that a reserved matters application does not need to be submitted to provide clear evidence of delivery. However, the combination of the lack of a secured housebuilder and no evidence of progress of reserved matters submissions means that clear evidence has not been provided, and I remove the 75 homes from the supply.
48. Site 7<sup>53</sup> is allocated in LPP2 (Policy TC3). However, there is no planning permission or even application for the residential element of the site. A full application is required because of heritage considerations. No substantiated timeline has been provided for the submission of the application or of the subsequent determination period. Given the heritage constraints, there is the potential for the design development and planning determination periods to be complicated and to be the subject of delays. I acknowledge that this is a Council-run proposal with secured grant funding<sup>54</sup> and assistance from London Continental Railways. However, no developer is on board, which could cause further delays in delivery. Overall, clear evidence has not been provided and I therefore remove the 70 homes from the supply.
49. Site 8<sup>55</sup> is allocated in the TNP (Policy TIP15) for a minimum of 200 homes. However, although a planning application was due to be submitted by February 2026<sup>56</sup>, it has not. There is a housebuilder on board and progress towards submitting an application has been provided. However, the delay to the

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<sup>47</sup> CD-E21

<sup>48</sup> Fiveways Fruit Farm, Stanway

<sup>49</sup> Confirmed at RTS

<sup>50</sup> CD-G4

<sup>51</sup> Land west of Lakelands, Stanway

<sup>52</sup> CD-G5

<sup>53</sup> Britannia car park, Colchester

<sup>54</sup> CD-G6

<sup>55</sup> Highland Nursery, Tiptree

<sup>56</sup> CD-G7

submission even during the writing of evidence for the Inquiry illustrates the potential delays that could prevent delivery of housing within the five-year period. Overall, clear evidence has not been provided and I therefore remove the 50 homes from the supply.

### Calculation

50. The five-year housing requirement including the agreed 5% buffer is 6,788 homes. The Council's calculation of supply is 4,576. As set out above, I have removed 704 homes from the supply<sup>57</sup> resulting in a supply of 3,872 dwellings. This equates to a 2.85-year supply of housing land.

## **Planning Balance**

### *Positive*

#### Market housing

51. The provision of housing is one of the key tenets of national and local planning policy, and also of general Government policy<sup>58</sup>. It is proposed to provide up to 165 homes, 70% of which would be market housing, ie 115 dwellings. This would be a meaningful contribution to the housing supply. This is particularly important because, as set out above, the Council can only demonstrate a 2.85-year supply of housing land, which represents a shortfall of 2,916 homes when compared to the target of a five-year supply, as set out at Paragraph 78 of the Framework. I therefore place substantial weight on the proposed market housing.

#### Affordable housing

52. Policy DM8 of the LPP2 requires 30% affordable housing and Policy TIP05 of the TNP requires that 25% of the affordable housing be First Homes. This is precisely what is secured in the s106. The proposal is for up to 165 homes meaning a total of up to 50 affordable homes would be provided.
53. There is a net annual need for affordable housing in the Council area of 877 dpa up to 2041<sup>59</sup>, with a specific need for Tiptree of 44 dpa<sup>60</sup>. Over the past eight years, the net delivery of affordable housing has been 133 dpa<sup>61</sup>, at an average of 14% of overall housing completions<sup>62</sup>. Delivery in the past three years, ie since the LPP2 and the current spatial strategy have been adopted with an increase in affordable housing requirements from 20% to 30%, has been higher, at 181 dpa and 22% of overall completions. This is a meaningful improvement in delivery but it still falls far below meeting the need for affordable housing.
54. The failure to meet the need for affordable housing is having real world effects. For example, there are 2,428 households on the housing register, 485 households in temporary accommodation, and house prices have increased in Tiptree by 23% since 2017<sup>63</sup>.

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<sup>57</sup> From Sites 1, 2, 3, 6, 7 and 8

<sup>58</sup> See paragraph 203 of the appellant's closings, ID24a

<sup>59</sup> Table 6.6, CD-E14

<sup>60</sup> Table 6.7, Ibid

<sup>61</sup> Figure 8.2, CD-H5a

<sup>62</sup> Figure 8.1, Ibid

<sup>63</sup> See paragraph 211 of the appellant's closings for further effects, ID24a

55. To meet the affordable housing need figure, and assuming a policy compliant level of 30% affordable housing, 2,923 dpa of housing overall would need to be delivered. The total homes would, in reality, need to be higher still because smaller scale and/or brownfield land schemes are either not required or often not viably able to provide 30% affordable. Such a level of delivery would represent roughly a three-fold increase on the average delivery over the past eight years. There is no likelihood of this happening.
56. Overall, affordable housing delivery has persistently fallen below affordable housing need. There is little to no possibility of the full affordable housing requirements being met moving forward. This is creating genuine hardship for people. The proposal would make a moderate, but important, contribution to meeting the need.
57. I was asked by the appellant<sup>64</sup> to genuinely place substantial weight on the provision of affordable housing, and I do. However, it is only a policy compliant offer and does not go beyond the minimum that is necessary to comply with the Development Plan. I acknowledge that the average delivery of affordable housing across the Council area is below the policy compliant figure over all of the past eight years. However, the appeal site is a greenfield site with no meaningful constraints and there is no reason why such sites should not be able to provide policy compliant levels of affordable housing. In addition, whilst under-delivery of affordable housing must be a contributing factor to the real world effects because of the laws of supply and demand, the cause and effect of these factors is multi-layered, with factors such as build costs, mortgage rates and availability, and population growth, amongst others, all also important elements of the equation.
58. The proposed affordable housing therefore attracts the same substantial weight as the market housing.

#### Economic

59. The proposal would create short-term economic benefits during the construction period. Because the proposal is for up to 165 homes, this would involve the creation of significant numbers of jobs. It would also create long-term economic benefits from the expenditure on goods and services by the future occupants of the proposal, which again would be significant because of the large number of future occupants that would result from the proposal. I place significant weight on these economic benefits.

#### Public open space

60. The Council's Open Space Report<sup>65</sup> finds that there are limited areas of natural and semi-natural greenspace near to the appeal site and within Tiptree more generally, with the most meaningful being the Tiptree Heath SSSI to the south west<sup>66</sup>. Similarly, there are only small pockets of amenity greenspace in Tiptree<sup>67</sup>. Overall, the report has found that the southern part of the Council area, which includes Tiptree and the appeal site, suffers from a small deficiency in open space

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<sup>64</sup> Verbally at the Inquiry

<sup>65</sup> CD-E24

<sup>66</sup> Figure 5.1, Ibid

<sup>67</sup> Figure 6.1, Ibid

of 0.64 ha<sup>68</sup>. In addition, the 2006 Townscape Character Assessment identified a threat as a lack of public open space in the area<sup>69</sup>.

61. 4.42 ha of public open space is proposed, partly to the front of the site, mostly along the western edge, and also to the rear alongside the LWS. The open space would include large landscaped, grassland areas, a Locally Equipped Area of Play (LEAP), walking routes, and an orchard. The policy requirement for open space is 10% of the site area<sup>70</sup>, which would equate to c.1 ha for the appeal site, so the provision would be significantly in excess of the minimum requirements. The open space, LEAP, walking routes and orchard would be accessible by existing residents as well as future occupants of the proposal.
62. Due to the combination of the size (both in absolute terms and because it would be significantly larger than policy requirements), range of facilities, openness to the public, and deficiencies (albeit small) in current provision, I place significant weight on the open space.

#### Tiptree Heath Primary School car park

63. As existing, Tiptree Heath Primary School generates 45 trips at both pick-up and drop-off times. Over half of those people park on surrounding roads, 14% within car parks eg The Ship Inn, and roughly a third in the school grounds<sup>71</sup>. This is only a partially managed situation and likely creates issues with highway safety and the free-flow of traffic.
64. A car park is proposed to provide parking for the school. A puffin crossing is also proposed to provide access across Maldon Road to the school from the car park. This would regularise car parking at school drop-off and pick-up times, easing the harm caused by the current situation. Whilst no substantiated evidence has been provided of unacceptable highway safety risks in the current operation, the meaningful improvement to the safety of a primary school drop-off is an obvious and clear benefit of the proposal and I place moderate weight on this factor.

#### Highways

65. Maldon Road as it passes along the appeal site is narrow, albeit with two clear lanes. It has a pavement along the south side which is sufficiently wide for pedestrians only. Several houses and a school directly access the road via driveways. There is also one agricultural vehicular access to the appeal site field on the northern side of the road. Travelling into Tiptree, the road adopts a typical built-up area character. The pavement continues into Tiptree on the southern side, and there is also a further pavement to the northern side which ends by the appeal site and which can be accessed by crossing Maldon Road via dropped kerbs just to the east of an existing bus stop.
66. The vehicular access to the proposal would be from a new access created on the north side of Maldon Road. The road would be widened at this point and a right turn area created. A new footpath would be created along the north side of Maldon Road leading westwards from the new access point. This would be 3.5m wide and also suitable for bikes. A puffin crossing would be created near the

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<sup>68</sup> Table 10.3.2, CD-E24

<sup>69</sup> Pdf 310, CD-E20

<sup>70</sup> Policy DM18, LPP2 – CD-D2

<sup>71</sup> Paragraph 5.9 and pdf 305+, CD-A14a

access to the school and leading to the newly proposed school car park. A guard rail would be provided along the existing footpath where it is near to the school and the proposed puffin crossing.

67. Further into Tiptree a series of further highways works are proposed, including a new pedestrian crossing point with central refuge island near Station Road. A widened footway along the north side of Maldon Road is also being considered to accommodate bikes, although this is subject to confirmation, with the details to be agreed by condition(s).
68. The introduction of a wider shared footway/cycle way, puffin crossing and the guard rails outside the school would all improve highway safety, not only to future occupants of the proposal but also existing residents, in particular the parents, teachers and pupils at the school. The improvements would be limited but meaningful and would involve increasing the safety of young children. I therefore place moderate weight on these factors.

### Accessibility

69. There are three PRow which run either through or alongside the boundary of the site<sup>72</sup>. These are typical footways through agricultural land, susceptible to being muddy, and in places overgrown. There are also bus stops on each side of Maldon Road adjacent to the appeal site, with the southern one also benefitting from a lay-by.
70. The existing bus stop lay-by to the south would remain. The bus stop to the north would remain on the main carriageway but the stop would be upgraded to include a shelter and raised kerb. It is also proposed to upgrade the PRow. Further to this, bicycle access in the wider area would be enhanced by the creation of the shared, wider footway along Maldon Road. These upgrades would enhance the useability of the bus routes, the footways and the PRow. However, the improvements would be modest and would not involve additional bus services or entirely new pedestrian access routes or options. I therefore place limited weight on these factors.

### Ecology

71. The appeal site is largely an agricultural field with limited ecological value. There are some hedgerows, watercourses and trees of no more than local interest, providing habitat for reptiles, bats and birds (including skylarks), but again to no more than local interest level<sup>73</sup>.
72. The proposal would involve the loss of the majority of the existing habitat, including the removal of large amounts of the existing hedgerows. As proposed, some grassland would be fenced off in the proposed open space, mixed scrub would also be provided and over 1 km of new, species-rich hedgerow. Suitable control of the provision and then ongoing management and maintenance of on-site measures could be secured by a mixture of condition(s) and the s106. There would also be disruption during construction, although this could be partially mitigated through protection and control by Construction Environmental Management Plan(s) which could be secured by condition. Overall, the net effect

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<sup>72</sup> Figure 2.21, pdf 32 – CD-A14a

<sup>73</sup> Table 2, CA-A21a

on on-site biodiversity would be a loss of 12.66% in habitat units and a gain of 39.92% in hedgerow units<sup>74</sup>.

73. Off-site, there would be skylark mitigation, which could be secured by condition. Condition(s) and the s106 would also secure an overall BNG of over 10%. However, this would be reliant on off-site measures, the full detail of which is not before me.
74. As set out in the Preliminary Matters section above, Tiptree Heath SSSI lies slightly further afield to the south east, as do the Essex Coast EPSs along the coast to the south. The proposal would not directly affect the LWS, SSSI or EPSs, but could cause harm through increased recreation use by the future occupants of the proposal. However, the measures secured in the s106 would mitigate these effects, resulting in an overall neutral effect on these sites.
75. Overall, the existing ecological value of the site is low. However, there would still be some harm to on-site habitat, as set out above. Whilst an overall BNG would be achieved, this would rely on as yet to be determined off-site measures. I therefore place limited weight on these factors.

#### Other

76. The s106 secures contributions towards library facilities, healthcare facilities, the public display of archaeological evidence, community facilities, and education. Although these are made in mitigation of the effects of the proposal on local infrastructure, the benefits would also be felt by existing residents. I therefore place limited weight on these contributions. In addition, one car club space is secured by the s106, which would be open to use by existing residents. Only one space is secured which therefore carries only limited weight.

#### *Negative*

##### Agricultural land

77. The Agricultural Land Classification Report<sup>75</sup> finds that 7.4 ha of the appeal site is Grade 3b 'moderate' quality agricultural land and 2.8 ha is Grade 3a 'good' quality agricultural land. Only the 2.8 ha of Grade 3a land is classified as best and most versatile agricultural land (BMV) in the Framework. Nevertheless, the proposal would result in the loss of all the land, including an area, albeit small and of the lowest qualifying grade, of BMV. This attracts limited weight.

##### Highways

78. The proposal would generate vehicular traffic on the local road network from the future occupants of the houses. It is common ground that this increase in traffic would not give rise to significant effects on the highway network. The Highway Authority does not object to the proposal<sup>76</sup>. A dedicated right turn lane would be provided, limiting disruption to the highway network. Nevertheless, there would be an increase in traffic and corresponding harm to the free-flow of traffic. However, because of the mitigation measures and that there would not be significant effects on traffic or safety, this attracts limited weight.

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<sup>74</sup> Tables 2A and 2B, CD-A22

<sup>75</sup> CD-A31

<sup>76</sup> CD-C31

### Character and appearance

79. As set out above, there would be limited harm to the character and appearance of the area, including to the landscape. I place limited weight on this limited harm.

### Spatial strategy

80. The appeal site is in an accessible location, adjacent to a settlement that is second in the hierarchy of settlements on the Council area, to which growth is directed by the spatial strategy. However, the residential development is proposed outside the defined SB on open rural land, albeit influenced by the surrounding built form, contrary to the spatial strategy of the Council. All the relevant policies to this<sup>77</sup>, though, are out-of-date because they are some of the most important policies for determining the application and the Council cannot demonstrate a five-year supply of housing land, as set out at Footnote 8 and Paragraph 11d of the Framework. It is for the decision maker, in this case me, to decide what effect this has on the weight to apply to the identified conflicts with the Development Plan.
81. With regard to the policies<sup>78</sup> which relate to the protection of the countryside and which restrict development outside of SBs, the relaxing of such restrictions is necessary for the spatial strategy of the Council to appropriately respond to its lack of housing land. In addition, the Development Plan is predicated on now out-of-date housing requirement figures of 920 dpa, much lower than the current SM calculation of 1,293 dpa. The LPP1 is also over five-years old, falling foul of the requirement to update strategic policies at least once every five years particularly, as is the case with Colchester, where the housing need figure has changed significantly<sup>79</sup>.
82. The Council has an eLP. However, this is in the early stages of production. It's final form, and the housing allocations it will make, are not yet known. It is also uncertain how this will eventually translate into on-the-ground delivery. For example, the Environment Agency and Anglian Water Services have recently raised concerns regarding wastewater capacity<sup>80</sup>, which could delay or even curtail development. Although housing delivery has been strong in recent years this is when measured against the now out-of-date housing requirement.
83. It is therefore clear that in the short to medium term at least, the Council needs to allow housing development outwith the spatial strategy and in particular outside of defined SBs, and I therefore significantly reduce the weight of the conflict with the Development Plan in this regard and place limited weight on the harm and conflict with these elements of the spatial strategy.
84. However, and importantly, the proposal would cause harm beyond the non-compliance with SB protections because it would also contribute to the dilution of the distinct identities of Tiptree and Tiptree Heath due to harmful coalescence. There is a consistent and well-founded basis for the protection of such coalescence at all levels of the Development Plan. In addition, the dilution of these protections would not be able to, on its own, significantly respond to the

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<sup>77</sup> Policies SP3 and SP7 of the LPP1, Policies DM15, ENV1, OV2, SG1, SG2 and SS14 of the LPP2, and Policies TIP01 and TIP02 of the TNP

<sup>78</sup> The relevant parts of Policies ENV1, OV2, SG1, SG2 and SS14 of the LPP2 and Policy TIP01 of the TNP

<sup>79</sup> Paragraph 34, the Framework

<sup>80</sup> Pdf 10 and 5.19+, ID13

Council's lack of housing land. I therefore only slightly reduce the weight to the conflict with these policies<sup>81</sup>, and place significant weight on this factor.

*S38(6) and material considerations*

85. Particularly because of the conflict with the spatial strategy as it relates to protection of coalescence, the proposal fails to comply with the Development Plan when considered as a whole. However, the Framework is an important material consideration. In this regard, the Council cannot demonstrate a five-year supply of housing land and it is common ground that none of the qualifications at Paragraph 11di of the Framework apply, and I agree. The 'tilted balance' as set out at Paragraph 11dii is therefore engaged.
86. The appeal is for the provision of housing and the appeal site lies within a neighbourhood plan area. Paragraph 14 of the Framework is therefore relevant. 'Likely' is used in Paragraph 14. However, this does not apply to considering whether or not to engage the paragraph. It instead is related to how to apply the paragraph if it is engaged. Parts a) and b) of Paragraph 14 therefore apply, and Paragraph 14 is engaged.
87. Regarding part a), the TNP was made in March 2023 and therefore became part of the Development Plan fewer than five years before the date of my Decision. Part a) therefore applies to the appeal.
88. Part b) requires that the neighbourhood plan contains policies and allocations to meet its housing requirement, and also cross-refers to Paragraphs 69 and 70. It is common ground, and I agree, that Paragraph 70 does not apply to this appeal. With regard to Paragraph 69, the LPP2 allocates 600 houses to the TNP area, as set out at Paragraph 6.218. Policy SS14 also specifically requires that the TNP contain site allocations to deliver a minimum of 400 dwellings. The spatial strategy in the TNP<sup>82</sup> provides for a minimum of 400 dwellings on two allocated sites along with an addition 200 dwellings with planning permission.
89. Both paragraphs 14 and 69 refer to housing requirement, as opposed to housing need. Therefore, in the context of Paragraph 14, it is not necessary to give any consideration to alternative housing need calculations such as the SM. This applies even if the need figures are more up-to-date, because Paragraph 14 is not an opportunity to re-visit such calculations. If it were, then either it or Paragraph 69 would say so, which they do not, save for an irrelevant, to this appeal, consideration regarding a significant change in circumstances at the time of examination of the plan. Similarly, all references to Paragraph 78 are also misplaced, because it is not referred to within Paragraph 14.
90. TNP therefore contains policies and allocations to meet its identified housing requirement and complies with part b).
91. I am conscious that I have identified several benefits to the proposal which attract substantial weight and only one harm of the lesser significant weight along with other only limited harms. This would normally lead to a conclusion that a proposal should be allowed on the basis of the planning balance. However, Paragraph 14

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<sup>81</sup> For avoidance of doubt, these are Policies SP3 and SP7 of the LPP1, Policy ENV1 of the LPP2, and Policy TIP01 of the TNP

<sup>82</sup> Policies TIP01, TIP15 and TIP16

- is very clear that proposals, such as this one, which comply with the paragraph are likely to fail even a 'tilted balance'. The 'tilted balance' is still engaged but housing proposals are likely to be unacceptable in any event. It is a material consideration that purposefully increases the importance and weight of failure to comply with a neighbourhood plan, and reflects the importance placed on neighbourhood planning elsewhere in the Framework, such as at Paragraph 30.
92. Nevertheless, and importantly, the paragraph only says that it is 'likely' that the proposal would fail the 'tilted balance'. Therefore, Paragraph 14 does not mean that proposals automatically become unacceptable. However, 'likely' is key and means that there must be factor(s) out of the ordinary present for the 'tilted balance' to still be in favour of a proposal.
93. In this regard, the appeal proposal is in many ways a good candidate for such development. Residential development is needed in Colchester on greenfield sites outside of defined SBs to respond to its lack of supply of housing land. In this regard. The harm to character and appearance from the proposal is limited and views to the countryside beyond would be partially retained. The appeal site is accessible and is directly adjacent to a large village which is one of the focusses for growth and in the second tier of the settlement hierarchy.
94. However, the proposal is at heart a typical, mid-sized housing development with policy compliant affordable housing. The only factor which is unusual is the proportion of open land, but this is largely a (failed) attempt to respond to the coalescence issue. In addition, on the negative side of the balance, the conflict with the spatial strategy goes beyond a mere technical conflict by being outside the SB, and also relates to the coalescence, albeit qualified, of Tiptree and Tiptree Heath. Most importantly, there is conflict with the spatial strategy as set out at neighbourhood plan level.
95. It is also germane that Colchester has consistently delivered on its housing requirement<sup>83</sup> and Tiptree specifically has delivered 528 homes out of its 600 allocation<sup>84</sup>. Although the requirement is now out-of-date, this is still a material consideration. In addition, not all affordability indicators are negative, for example the affordability of housing is slightly better than the East of England average<sup>85</sup>. Importantly, the housing land supply situation, whilst significantly below five years, is not unusual. In the majority of situations where Paragraph 14 is engaged<sup>86</sup>, there will be a lack of a five-year supply of housing land. For the paragraph to have any meaningful relevance, it must therefore usually still apply in such situations.
96. I therefore conclude that Paragraph 14 'bites', and the adverse impact of allowing the proposed development would significantly and demonstrably outweigh the benefits of the proposal.

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<sup>83</sup> Table One, pdf 10 – CD-E21

<sup>84</sup> Paragraph 24, pdf 9 – CD-B8

<sup>85</sup> Figure 2.4, pdf 10 – CD-A9

<sup>86</sup> It can apply when the Development Plan is out-of-date for other reasons, eg age and lack of consistency with the Framework. However, Paragraph 14 only applies to housing development and it is likely that the majority of situations where it is engaged will be for such development combined with a lack of a five-year supply of housing land

97. In the Bourton Road appeal, the Inspector adopts the same fundamental approach to Paragraph 14 as I do, acknowledging that it is possible for a proposal to still be acceptable despite the paragraph being engaged<sup>87</sup>. As do the Inspectors at Horsham Golf Club<sup>88</sup>, Woodrow Road<sup>89</sup> and Wandleys Lane<sup>90</sup>. That they have all subsequently come to different conclusions on the balance as considered in the context of Paragraph 14, ie allowed the appeals, is not directly comparable to the appeal scheme. They are different proposals with different benefits and harms in different local authorities, with a different adopted and emerging Development Plans. What matters with regard to the principle of consistency of decision making is that all those decisions have the same fundamental approach to the application of Paragraph 14 as have I also adopted.

### **Conclusion**

98. For the reasons set out above, the proposal conflicts with the Development Plan when read as a whole and there are no material considerations which indicate a decision should be made otherwise. The appeal is therefore dismissed.

*O S Woodward*  
INSPECTOR

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<sup>87</sup> Ref APP/J0405/W/25/3372565, dated 31 March 2026 – ID28c, DL76

<sup>88</sup> Ref APP/Z3825/W/24/3355546, dated 11 July 2025 – CD-F14, DL59

<sup>89</sup> Ref APP/Y3940/W/25/3374421, dated 9 April 2026 – ID28b, DL43

<sup>90</sup> Ref APP/C3810/W/24/3349836, dated 7 April 2025 – CD-F13, DL72. The use of the word 'rare' is not in the Framework and I place no weight on this, but it does not undermine the principal point I am making above regarding consistency of approach to paragraph 14 and the word 'likely'

## **ANNEX A: APPEARANCES**

### FOR THE APPELLANT:

Christopher Young KC, supported by Jessica Allen, Counsel. They called:

Robert Barber MRTPI - Executive Director, Pegasus Group

Michael Carr RUDP - Head of Architecture and Urban Design team, Pegasus Group

Matthew Chard FLI - Director, Stantec UK Ltd

Ben Pycroft MRTPI - Senior Director, Emery Planning

Jamie Roberts MRTPI - Associate Director, Tetlow King Planning

Nicola Gooch – Partner, Birketts LLP

### FOR THE LOCAL PLANNING AUTHORITY:

Matthew Henderson, Counsel. He called:

Peter Dawson CMLI - Built Environment Manager at Essex Place Services

John Miles MRTPI - Principal Planning Officer, Colchester City Council

Karen Syrett MRTPI - Strategic Growth and Infrastructure Manager, Colchester City Council

### FOR THE R6 PARTY:

Cllr Jonathan Greenwood – Chairman, Tiptree Parish Council

### INTERESTED PARTIES:

Kevin Kelly – Local resident

Cllr Paul Dundas – Colchester City Council

## **ANNEX B: DOCUMENTS**

- ID1 – Appearances on behalf of Colchester City Council
- ID2 – Opening Submissions by the Appellant
- ID3 – Opening Statement by Colchester City Council
- ID4 – Opening Statement by Tiptree Parish Council
- ID5 – Policy SS14 Plan and Key
- ID6 – Gap Analysis Plan 3: Parameters Ref LN-LP-07
- ID7 – Figures 3.1 to 3.7 of the Townscape Character Assessment of Colchester, Tiptree, West Mersea, and Wivenhoe by Chis Blandford Associates
- ID8 – Note on Local Plan Committee 16.3.26
- ID9 – Letter from Mrs Michelle Peart, dated 18 March 2026
- ID10 – Appearances on behalf of the Appellant
- ID11 – s106 Agreement Summary Note, dated 18 March 2026
- ID12 – Draft s106 Agreement
- ID13 - Colchester Preferred Options Local Plan – Update Report, dated 16 March 2026
- ID14 - Maps illustrating location of additional sites promoted through the Regulation 18 Consultation (Maps 1 to 3)
- ID15 – Draft s106 Agreement with Inspector comments
- ID16 – Suggested Conditions with Inspector comments
- ID17 – Cllr Jonathan Greenwood Agenda
- ID18 - Letter from Mrs Michelle Peart, dated 20 March 2026
- ID19a – Anglian Water Response, dated 17 April 2025
- ID19b – Report to Committee for Land North of, Coach Road, Great Horkesley, Colchester Ref 250545
- ID20 – Appeal Decision Ref APP/Q3115/W/25/3370273, dated 20 February 2026
- ID21 – Site Visit Route Map
- ID22 – Closing Submissions on behalf of Colchester City Council
- ID22a – Court of Appeal Case No C1/2017/3339, dated 31 July 2018
- ID22b - Court of Appeal Case Gladman Developments Ltd v SSHCLG (CA) 1450
- ID22c - Court of Appeal Case Gladman Developments Ltd v SSHCLG (QBD) 993
- ID22d – Cour of Appeal Case Nos C1/2013,/2619, 2622, 3551 and 3781, dated 7 May 2014
- ID23 – Tiptree Parish Council Closing Statement, dated 25 March 2026

ID24a – Closing Submissions on behalf of the Appellant

ID24b - Wavendon Properties Ltd v Secretary of State for Housing, Communities and Local Government and another 2077

ID24c - Regina (Cherkley Campaign Ltd) v Mole Valley District Council Ref [2014] EWCA Civ 567

ID24d - Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant), Ref [2017] UKSC 37 dated 10 May 2017

ID24e – R. (on the application of Redditch BC v First Secretary of State Ref [2003] EWHC 650 Admin; [2003] 2 P. & C.R. 25

ID25 – Suggested Conditions Schedule

ID26 – Final, engrossed, s106 Agreement

ID27 – Parish Council response, dated 29 April 2026

ID28a – Appellant commentary on submitted appeal decisions, dated 29 April 2026

ID28b - Appeal Decision Ref APP/Y3940/W/25/3374421, dated 9 April 2026

ID28c - Appeal Decision Ref APP/J0405/W/25/3372565, dated 31 March 2026

ID29 – Council's response to appellant appeal decisions