

Comments from Statutory Consultees & Developers with regards to the SEA

Comment	TNP response
<p><u>Natural England</u> Natural England has no comments to make on the SEA</p>	
<p><u>Gladman</u> 3.3 Strategic Environmental Assessment (SEA)</p> <p>3.3.1 The Council have undertaken a Strategic Environmental Assessment (SEA). The SEA is a systematic process that should be undertaken at each stage of a Plan’s preparation. It should assess the effects of a neighbourhood plan’s proposals and whether they would be likely to have significant environmental effects and whether the Plan is capable of achieving the delivery of sustainable development when judged against all reasonable alternatives. Both the SEA Directive and Neighbourhood Planning PPG make expressly clear that an SEA Screening Assessment should be undertaken at the earliest opportunity.</p> <p>3.3.2 Gladman are concerned with the approach within the SEA and the assessment of sites in determining a preferred approach for the Plan. Notably, the SEA highlights significant issues relating to the proposed allocations and ‘Land, Soil, Water’, ‘Heritage; and ‘Landscape’ issues yet continues to support a preferred growth scenario that would cause ‘tensions with environmental and wider sustainability objectives.</p> <p>3.3.3 The SEA supports a growth scenario which would not deliver the most positive outcomes to sustainability and environment objectives, primarily due to the option not delivering a new strategic link road or delivered ‘too many homes in the plan period’.</p> <p>3.3.4 This is confirmed by the Steering Group who in the SEA state the following at paragraph 7.2: “Scenario 1 is preferred in light of the assessment, which is considered to align well with the findings of our site selection process, as set out in the Site Selection Topic Paper. Scenario 1 is considered to align strongly with the established</p>	<p>This is a misrepresentation of the TNP approach (see below)</p> <p>It is not the case that disproportionate weight has been placed in the assessment on the delivery of a link road. The desire expressed in community consultation was to avoid extra traffic on the main routes through Tiptree (B1022 & B1023) but especially through</p>

neighbourhood plan objectives, and it is noted that the assessment presented above does not highlight any 'significant negative effects' in respect of the SEA objectives. Having said this, we recognise that Scenario 1 gives rise to certain tensions with environmental and wider sustainability objectives, and that there are potentially certain draw-backs relative to alternatives. The assessment serves to highlight a particular tension in respect of loss of best and most versatile agricultural land, which unfortunately is largely unavoidable, but other issues/tensions, including in respect of heritage and landscape objectives, can and will be addressed through stringent development management policy, developed in collaboration with the land-owners (to ensure that policy requirements are achievable). Briefly, taking the non-preferred scenarios in turn: Scenarios 2 and 3 are not supported primarily because the opportunity to deliver a new strategic link road across the north of the village, in line with the emerging Local Plan proposal/requirement, would not be realised; whilst Scenario 4 is not supported primarily because it would involve support for too many homes in the plan period."

3.3.5 As currently presented, Gladman do not consider that the current iteration of the SEA has addressed issues highlighted by the Examiner of the previous plan and significant flaws persist with the SEA and associated policy direction of the Plan.

3.3.6 Should amendments to the SEA result in other policy choices being progressed the TNP will require further Regulation 14 consultation to be legally compliant and meet the basic conditions.

4 Conclusions

4.1.2 Gladman have provided comments on a number of the issues that have been identified in the Council's consultation material and recommend that the matters raised are carefully explored during the process of undertaking the Neighbourhood Plan. It is considered that significant flaws exist in the SEA and Site Selection process

Church Road. For this reason the expressed desire was to place new developments to the North/north-west (avoiding the LWS) where easy access to the A12 (and Colchester Road) could be provided. It was only after the northern/north-western sites were looked at that it was realised traffic flows could be improved by a couple of strategic link roads.

In the light of the Marden appeal the Tower End sites no longer feature as a reasonable growth scenario. The Environmental Report is being updated for submission and the representation will be taken into account.

TNP disagrees with this conclusion. The SEA tests reasonable alternatives – including Tower End – and arrives at the conclusion that the proposed strategy is the most suitable for meeting the TNP's objectives and the requirements of Policy SS14 in the Local Plan Part 2.

The fundamental concern appears not to be with the reasonable alternatives appraised, but with the reasons for selecting the preferred option.

<p>and at present the plan cannot be considered to meet the basic conditions.</p>	<p>The reasons for selecting the preferred option are clearly set out. The preferred option is considered to represent a reasonable option when appraised against alternatives.</p>
<p>Savills (Mark Hodgson – promoting the Essex & Suffolk Water land at Tower End) It is noted in the Strategic Environmental Assessment (SEA) of the Plan dated March 2022 that the Tower End site appears in Growth Scenarios 2, 3 and 4. According to Table 6.1 in this report the Tower End site performs best in terms of landscape, heritage and land, soil and water. Notwithstanding the conclusions that have been reached about our client’s site it still remains that it is a sustainable location for development given its previous proposed allocations and the nature of the assessment in the SEA.</p>	<p>The Tower End site has potential for future development. However overall it is not supported on balance, in light of the consideration of reasonable alternative sites presented in the SEA”. Since the Marden appeal the remainder of the Tower End area is not considered to offer a reasonable growth scenario. The Environmental Report is being updated for submission and the representation will be taken into account.</p>
<p>Savills (James Firth – Promoting the Marden Homes land at Tower End – subsequently given on appeal) The following are selected paragraphs that comment on the SEA. They have been selected as the most relevant paragraphs that explain the representation being made on the SEA. The complete submission is provided separately. <u>Strategic Environmental Assessment of the Tiptree Neighbourhood Plan Environmental Report March 2022</u></p> <p>The previous attempt at preparing a Tiptree Neighbourhood Plan (TNP) failed at the Examination stage, with the Examiner identifying a number of concerns. Such concerns including that it was ‘more than likely’ that there had been a premature fixing of the spatial strategy, with decisions on the direction of growth made ahead of SEA, contrary to the Environmental Assessment of Plans and Programmes Regulations (2004).</p> <p>The Draft TNP SEA seeks to provide the justification for the proposed strategy in the Draft TNP. As per Regulation 16 of the SEA Regulations, the SEA of the TNP is required to explain the reason for the selection of options, and the rejection of reasonable alternatives. As already noted, concerns with the previous TNP included those relating to its SEA, including the premature fixing of a spatial strategy, and the over-reliance on a new link to determine the spatial strategy.</p>	<p>With the granting of the Marden Appeal, the Tower End site becomes less favourable in the consideration of alternatives such that the site no longer offers a reasonable growth scenario. The Environmental Report is being updated for submission and the representation will be taken into account.</p>

On review of the Draft TNP and accompanying Draft TNP SEA, there are evident concerns that issues that caused the previous TNP to fail at Examination are being repeated. It is clear, for example, that the Draft TNP SEA has considered the potential for sites to facilitate delivery of the new link road the Draft TNP proposes as a determinant factor in site and option selection. There are clear suggestions that the draft proposals in the Draft TNP have again been formulated based on the premature assumption that the strategy should seek to deliver a new link road between the B1022 and B1023.

This appears to be made on the mistaken assumption that LPS2 expressly supports the provision of such a road. At paragraph 5.7 of the Draft TNP SEA it states:

“The Parish Council is focused on growth scenarios that would deliver, enable or facilitate road infrastructure upgrades to relieve traffic pressure on ‘hot spot’ locations, most notably the stretch of the B1023 that passes through the village centre, known as Church Road. It is not easy to envisage ‘village bypass’ options; however, the potential for new ‘relief roads’ to ease the situation can be envisaged, including a road linking the B1022 and B1023 to the north of the village, as supported by the Local Plan. In the long term, new relief/link roads delivered alongside new development could potentially serve to effectively bypass the village. As well as addressing traffic concerns, new road infrastructure could support local bus services” (Emphasis added).

In addition, at paragraph 2.7 of the Draft TNP SEA it states:

“An important point to note is that Main Modifications version of the LPS2 introduced two key changes, relative to the submission version. Firstly, the housing requirement was reduced from 600 to 400, to reflect a new committed site, specifically a site to the east (‘Barbrook Lane’) which gained permission in 2020 for 200 homes, following a recovered appeal. Secondly, there is now explicit support for delivering the first phases of a new link road between the B1022 and B1023 (Tiptree’s two main roads) to the north of the village.” (Emphasis added).

This is not the case. All sites were objectively assessed before a consideration of the NP objectives was applied. Objective 3 relates to the desire to provide easy access to the main routes whilst minimising the impact on the village centre. This was a factor (as were the other objectives) in the determination of the sites that were most strategically positioned. The link road proposal followed as a further means to enable easy access to the main routes.

The Draft TNP SEA does not include an assessment of the sustainability or otherwise of a new link between the B1022 and B1023, and instead appears to proceed on the false basis that this is required of any TNP and therefore there is no alternative option to this. As discussed, this cannot be the case.

Another, significant flaw with the Draft TNP SEA is its apparent failure to acknowledge that the LPS2 requires a minimum of 400 additional dwellings to be allocated through the TNP. This is particularly problematic, as the express reason for the rejection of one of the options in the Draft TNP SEA (citing text provided by the TNP Steering Group) is “because it would involve support for too many homes in the plan period.”

Notably, the Draft TNP SEA fails to consider the provision of more than 400 homes. This is evidently a “reasonable alternative”, in the context of the legal requirements of a SEA process given the emerging LPS2 expressly identifies this number as a minimum; and that the Draft TNP SEA suggests suitable sites able to contribute more. It appears that the upper number of new homes to be provided through the TNP has been prematurely determined without proper consideration and appraisal through SEA of alternative options.

The Draft TNP SEA considers various sites and concludes, following a shortlisting exercise, there are only three site combinations that warrant further consideration:

- Tower End (including the Appeal site) (200 homes)
- Highland Nursery (200 homes)
- Elms Farm (200 homes)

In relation to the above, the TNP SEA 2022 states, at paragraph 5.18:

“These three broad sites could potentially come forward in any combination”

The LP inspector allowed the references to the northern link road in policy SS14 and accepted the modification to require a ‘strategic transport assessment’ rather than a ‘detailed transport assessment’. To this end 3 transport studies have been completed by Cottee Transport Planning. Cottee considered the impact of no link road being delivered (with and without A12 improvements). They are referenced in the NP and were made available at Reg 14 consultation.

Reasonable growth scenario 4 involves 600 homes.

The Tiptree NP proceeded on the basis of an agreed allocation of new homes with CBC based on what the current infrastructure plus anticipated improvements in infrastructure could reasonably be expected to accommodate. That number was 600 (subsequently reduced to 400 in the light of the Barbrook Lane appeal being granted). The number is, for obvious reasons, expressed as a minimum.

(Emphasis added).

On the basis of these three sites, four reasonable options are identified by the Draft TNP SEA, comprising various combinations of these three sites. All but Growth Scenario 1 include the Appeal site. Under the heading 'Reasons for supporting the preferred approach' the TNP Draft SEA states:

"The Steering Group provided the following text:

"Scenario 1 is preferred in light of the assessment, which is considered to align well with the findings of our site selection process, as set out in the Site Selection Topic Paper. Scenario 1 is considered to align strongly with the established neighbourhood plan objectives, and it is noted that the assessment presented above does not highlight any 'significant negative effects' in respect of the SEA objectives. Having said this, we recognise that Scenario 1 gives rise to certain tensions with environmental and wider sustainability objectives, and that there are potentially certain draw-backs relative to alternatives. The assessment serves to highlight a particular tension in respect of loss of best and most versatile agricultural land, which unfortunately is largely unavoidable, but other issues/tensions, including in respect of heritage and landscape objectives, can and will be addressed through stringent development management policy, developed in collaboration with the land-owners (to ensure that policy requirements are achievable). Briefly, taking the non-preferred scenarios in turn: Scenarios 2 and 3 are not supported primarily because the opportunity to deliver a new strategic link road across the north of the village, in line with the emerging Local Plan proposal/requirement, would not be realised; whilst Scenario 4 is not supported primarily because it would involve support for too many homes in the plan period". (Emphasis added).

It is not the case that disproportionate weight has been placed in the assessment on the delivery of a link road. The desire expressed in community consultation was to avoid extra traffic on the main routes through Tiptree (B1022 & B1023) but especially through Church Road. For this reason the expressed desire was to place new developments to the North/north-west (avoiding the LWS) where easy access to the A12 (and Colchester Road) could be provided. It was only after the northern/north-western sites were looked at that it was realised traffic flows could be improved by a couple of strategic link roads.

In the light of the Marden appeal the remainder of the Tower End area is no longer considered to offer an alternative reasonable growth scenario. The Environmental Report is being updated for submission and the representation will be taken into account.

In short, the only reason for the rejection of a strategic option that includes the Appeal site, as well as both Elms Farm and Highland Nursery, is that this would “involve support for too many homes” (TNP SEA table 6.1 and para 7.2). Such reasoning is flawed, having regard to the LPS2 setting a minimum housing requirement, and in the context of the NPPF’s exhortation to significantly boost housing land supply. Separately, the only reason for rejection a strategic option that would involve the Appeal site plus one of either Elms Farm or Highland Nursery is that this would not deliver the proposed new link road – a new link which cannot be delivered by the TNP, and which there is no commitment to deliver through any other vehicle.

Importantly, the TNP Draft SEA clearly confirms there are no issues with the Appeal site in terms of its suitability for housing. Even if one were to overlook the TNP Draft SEA’s misguided rejection of the Appeal site on the basis that it would not facilitate delivery of the new link road, it acknowledges that the Appeal site could come forward for development as well as the sites required to facilitate the desired link road – the only reason for the rejection of this option is based on the entirely flawed premise that this would provide ‘too many’ homes.

Case law *Cogent Land v Rochford DC* confirms that defects in the SEA process can be rectified. There is potential for the TNP and its accompanying SEA to resolve defects as it is progressed. Indeed, one of key functions of the Regulation 14 stage is to enable such concerns to be raised and then subsequently addressed. The Appellant intends to make constructive representations to the current consultation on the Draft TNP, that will include raising the issues set out above.

At present, the TNP, whilst a material consideration, cannot carry anything more than very limited weight. This is consistent with the approach taken in the determination of the ‘Peckleton Lane’ appeal in which the Inspector concluded that the Desford Neighbourhood Plan could only be afforded very limited weight, as it had not yet reached the Regulation 16 consultation stage, and was subject to substantive unresolved objections.

There is a need to supplement Section 7 of the report, which supports the reasons for supporting the preferred approach.

Reasons should be explained at greater length, because concise reasons – whilst presumably appreciated by most stakeholders / interested parties – unfortunately leaves the SEA open to challenge from omission site promoters.

Cerda – promoting Brook Meadows development

We then turn to the site selection process itself. There is a topic paper which supports the Regulation 14 plan. There is a separate Strategic Environmental Assessment. Reasonable alternatives have been included in both reports and it is clear that for Tiptree there are a range of site options to choose from in seeking to meet the minimum 400 houses required in the strategic policies.

The approach taken in both the topic paper and the SEA is firstly crude and secondly fundamentally flawed.

We say that the process is crude, because the site selection methodology adopts a traffic light (red, amber, green) system for assessing sites. This is a narrow approach, with no ability to fully critique sites and properly grade each element of a site assessment in coming to a conclusion as to the relative merits and constraints of any given site. A metric scoring system – for example assessing each element of any given site from 1 to 10 – provides a much more refined approach and allows the individual circumstances of a site to be fairly represented in the assessment process.

We also raise concern that the full range of technical and environmental matters have not been considered in assessing site options.

We say that the process is flawed because the SEA adopts an incorrect methodology. As drafted, the SEA takes as read the growth option and then assesses sites against that option. The correct approach is to consider the site options and then turn to consider the growth options.

This is a matter that can be remedied by way of a thorough review and overhaul of the SEA and is a matter which should be addressed now before the neighbourhood planning process proceeds further.

We have more detailed matters to raise in relation to site selection vis a vis the topic paper and SEA, but it is not considered appropriate to raise these now given that the evidence base requires a thorough, from first principles review. Once this

We disagree. The approach taken was proportionate to the task at hand, namely to identify sites with potential to deliver the housing requirement. The RAG scoring system does not try to introduce a level of precision that is not possible to achieve without full site surveys.

The SEA has been professionally produced by AECOM and follows standard practice. The sites are objectively assessed before the TNP Objectives are brought into consideration.

<p>work is complete we would welcome the opportunity to review the detailed assessments undertaken and consider the deliverability of the site(s) chosen and how it/they perform against the reasonable alternatives.</p>	
<p><u>Bloor Homes (Promoting land at Peake’s Close, Maldon Road, Tiptree – site ref TIP65)</u></p> <p>The following are selected paragraphs that comment on the SEA. They have been selected as the most relevant paragraphs that explain the representation being made on the SEA. The complete submission is provided separately.</p> <p>1.10 In overview, the key concerns include:</p> <ul style="list-style-type: none"> • The TNP is contrary to numerous aspects of national policy and guidance. • The TNP conforms to neither existing nor emerging strategic policies in the Development Plan; • The spatial strategy which the TNP proposes to pursue is based on delivery of infrastructure for which there is a distinct lack of evidence to justify its needs or its benefits, and lack of evidence of its deliverability; and • Issues of legal compliance in respect of the accompanying Strategic Environmental Assessment (SEA). <p>2.21 In addition to the lack of evidence to support the selection of sites, there is a similar lack of evidence to support the rejection of reasonable alternatives.</p> <p>2.24 The Tiptree Site Selection Process report dismisses TIP65 on the basis that it could potentially lead to coalescence with Tiptree Heath and add traffic to Maldon Road by Heath School.</p>	<p>This is not the case. Tiptree NP has a professionally produced SEA that deals with these issues as well as the Housing Topic Paper.</p> <p>The site on offer has some merits however it performs less well in the consideration of alternatives. This site was refused on appeal because of its impact on landscape and coalescence with Tiptree Heath so coalescence is clearly an issue. Furthermore it is a stated objective of the NP to improve movement through Tiptree for vehicular traffic – and Maldon Road is already a busy road. The Bloor plan provided access to the estate close to a position opposite the Heath Primary School – out of which cars from 255 homes would be entering onto Maldon Road. Additionally the Bloor proposals included a school drop off within the development site. This would further add to traffic movements as vehicles enter the estate to drop off their charges and then attempt to exit the estate. It was</p>

2.26 The SEA that accompanies this Reg. 14 consultation, as set out above, considers only three potential sites. The SA/SEA that accompanied the previous iteration of the NP was more comprehensive and assessed all potential sites. It provided the following reason for the rejection of TIP65:

“The findings of the comparison of sites promoted for development show that most sites perform very similarly against the SEA objectives. TIP65 performed well in the NP SLAA, the RAG score was only a little lower than the preferred sites. However, development here is likely to have a negative impact on the adjacent Local Wildlife Site and the site offers few planning gains over and above other sites – particularly in terms of traffic impact. Traffic from this area would, of necessity, exacerbate traffic conditions in Maldon Road and would do so in the vicinity of The Heath Primary School. The site would increase coalescence between the main Tiptree settlement and the hamlet of Tiptree Heath. This site is not considered to be a more sustainable alternative to the preferred sites.”

2.27 There are a number of concerns with the SA/SEA in relation to the above.

2.28 Firstly, in respect of concerns that the site would result in a negative impact on the Local Wildlife Site, the proposed development of the site has been subject to a planning application and an appeal (reference 192025), through which it was confirmed that its development would not result in harm to the Local Wildlife Site.

2.29 Secondly, in respect of the planning gains not being considered to be “over and

considered that the potential for significant congestion was considerable. It is considered that by choosing sites to the north, such traffic congestion could be avoided and the creation of some strategic roads would disperse traffic around the village thus avoiding pressure points and reducing congestion rather than adding to it. Furthermore the sites to the north could provide land for a much needed new medical facility. The proposed sites clearly perform better in the consideration of alternatives.

This is not correct.

above” the selected sites, we would question this assertion. It is not clear what planning gains, for example, the Elms Farm allocation would facilitate. This sets an entirely artificial and inappropriate bar for alternative to clear – there is no reason why the site should be required to provide planning gains “over and above” those that may be provided by selected sites. Indeed, this stance suggests that, as a starting point, the selected sites are justified by default and that others must in some way be shown to be significantly preferred in order to the SA/SEA to suggest alternatives should be preferred.

2.30 Thirdly, the SA/SEA implies here that selected sites will result in traffic benefits – without evidence to support this assertion.

2.31 Fourthly, it makes reference to concerns in respect of coalescence between Tiptree and Tiptree Heath. Existing development already extends along both sides of the road which connects Tiptree and Tiptree Heath. On the southern side of this road, there is no break in built form between the two settlements. On the northern side, the Site and adjoining field provide a brief break in the built form that extends along the road frontage, but this is the only break.

2.32 These matters were considered in detail as part of the appeal in respect of the application for up to 255 dwellings. In dismissing the appeal, the inspector cited “. . . adverse impact on the local landscape and townscape in causing coalescence between Tiptree and Tiptree Heath.”

2.33 Further detailed assessment and design work has been undertaken by Bloor to address these matters: the introduction of a significant green buffer on the southern boundary of the site, with a concomitant reduction in dwelling numbers, would successfully address these issues.

2.34 Fifthly, the response of the Highway Authority in respect of the recent planning application and appeal (reference 192025) raises no objections in respect of the proposed development of the site’s impact on highways.

2.35 The flawed approach to the SA/SEA of site TIP65, with conclusions that are not only baseless but for which the Local Planning Authority has evidence which expressly contradicts these, results in parallels between the TNP and the Henfield Neighbourhood Plan. The Henfield Neighbourhood Plan was subject to a successful legal challenge (Stonegate Homes Ltd v Horsham DC [2016] EWHC 2512). One of the successful grounds concerned how the SA/SEA described the reason for rejection of one site (to the west of Henfield) as being that it would “place unsustainable pressure on the local road system”, despite this issue having been addressed through a separate planning appeal. One of the reasons for refusal has been a highways reason. However, through appeal, that was withdrawn by the Council as a result of an agreement between Barratt and the Highways Authority on highway works and contributions. The SA/SEA failed to reflect this. Consequently, as confirmed through the judgment, the Examiner of the Neighbourhood Plan was “proceeding on a false basis”.

2.36 In the case of the TNP, by citing alleged impact on the local highway network and Local Wildlife Site as the reason for the site’s rejection would also be to proceed on a false basis.

3 Sustainability Appraisal / Strategic Environmental Assessment and legal compliance

Introduction

3.1. Whilst Sustainability Appraisal / Strategic Environmental Assessment (SA/SEA) is not always required in respect of the preparation of a Neighbourhood Plan, it clearly is in the case of the Tiptree Neighbourhood Plan, given that it will make decisions on

In the consideration of alternatives TIP65 (Peakes) did not progress to the reasonable growth scenarios because it offers less community infrastructure in the locations where it is most needed/beneficial. and creates road traffic problems rather than solving them.

Peakes added traffic to a busy road, potentially creating chaos close to a school by the provision of a school drop-off on the estate, risked coalescence and provided little of benefit to the community. There were better alternative sites.

strategic issues such as the location of new development and the provision of new roads.

3.2. Indeed, the Basic Conditions Statement prepared alongside the TNP confirms that the need for SA/SEA of this Neighbourhood Plan was agreed at an early stage in its preparation.

3.3. As noted in Section 2, as the TNP is a plan for which SA/SEA is required, the SA/SEA must meet the requirements of the SEA Regulations.

3.4. The TNP is accompanied by an SEA.

3.5. However, there are a number of concerns in respect of the SEA and compliance with the SEA Regulations, as set out within this section of the representation.

Evaluation of alternatives and the need for this to be on an evidential basis

3.6. Regulation 12(2) of the SEA Regulations requires the SA/SEA to identify, describe, and evaluate the likely significant effects on the environment of proposed options, as well as on reasonable alternatives.

3.7. Regulation 12(3) sets out the information required to be included within an SA/SEA, referring to Schedule 2 of the SEA Regulations. In turn, Schedule 2 states that SA/SEA should consider short, medium and long term effects; permanent and temporary effects; positive and negative effects; and secondary, cumulative and synergistic effects.

3.8 The judgment in *Heard v Broadland DC, South Norfolk DC & Norwich City Council* [2012] EWHC 344 (Admin) confirms the need to consider reasonable alternatives through SA/SEA, and to do so to the same level of detail as the preferred option.

3.9. Separately, the judgment in Stonegate Homes Ltd v Horsham DC [2016] EWHC 2512) confirms that flaws in the assessment of sites can result in an SA/SEA failing its requirement in respect of Regulation 12; and that it is imperative for conclusions reached by the SA/SEA on an evidential basis.

3.10. In our view, Stonegate is of particular relevance to the TNP and how it has considered alternatives. We have already noted the parallels between Stonegate and the assessment of Site TIP65 within Section 2 of this representation. We do not repeat the details of this again here. But, to confirm, the lack of evidential basis for the SA/SEA conclusions that development of Site TIP65 would result in harm to a Local Wildlife Site or give rise to concerns in respect of highway impacts not only means that the TNP fails to meet the basic conditions, but is considered to also constitute a breach of the SA/SEA Regulations.

The requirement to avoid premature fixing of a spatial strategy

3.11. Both Heard and Stonegate confirm the need to avoid the premature fixing of a particularly strategy without proper consideration of alternatives.

3.12. However, in the case of the TNP a lack of willingness to depart from an already agreed strategy , regardless of the findings of SA/SEA is evident .

3.13. The TNP appears based around an assumption (and one for which there is little evidence) that a relief road to the north of Tiptree forms part of a suitable strategy and is deliverable. The SA/SEA expressly fails to consider alternatives, resulting in a very similarly failing to that identified in Heard.

The site assessments have been consistent and are not flawed.

The SEA sections 5 & 6 clearly explore alternative ‘strategic’ options for Tiptree and they were taken into account.

The link road is deliverable and there is evidence in support of its benefit however the TNP is not based around the delivery of this road – All sites were objectively assessed before a consideration of the NP objectives was applied. Objective 3 relates to the desire to provide easy access to the main routes whilst minimising the impact on the village centre. This was a factor (as were the other objectives) in the determination of the sites that were most strategically positioned. The link road proposal followed as a further means to enable easy access to the main routes.

Furthermore the Cottee reports considered the option of no link road and determined that this would have detrimental outcomes (both with and without A12 improvements).

Reason for the selection of options and the rejection of alternatives

3.14. Regulation 16 of the SEA Regulations requires that the reason for the selection of options, and the reasons for the rejection of reasonable alternatives, be made clear within the SA/SEA. This requirement in relation to plan-making has been confirmed through case law (for example, *Save Historic Newmarket Ltd v Forest Heath District Council* [2011] EWHC 606 (Admin)).

3.15. Again, the judgment in *Heard* and its confirmation of the need for conclusions to be evidentially based, is relevant here. Put simply, the SA/SEA must back up its conclusions with evidence. In this instance, it manifestly fails to do so.

3.16. The reason for the selection of sites and rejection of alternatives is flawed and based on assertions without evidence. This includes in relation to certain sites having a positive impact in respect of highways, and others a negative impact, without any reference to technical evidence to support this. Indeed, in the case of TIP65 the SSEA ignores evidence that the site would not have an adverse impact on highways.

3.17. The SEA considers what purports to be ‘four reasonable growth scenarios’ albeit, all four scenarios relate only to three sites to the north of Tiptree. The SEA concludes: “Many other scenarios can be envisaged, including scenarios involving Site 65 (which has support through the Local Plan) but are ruled out as unreasonable on balance.”

3.18. The comments in respect of site [TIP]65 set out the following analysis: “This site was given close consideration by the Steering Group, when preparing the previous version of the TNP, and (accordingly) the emerging Local Plan Policies Map indicates that this is a potential direction of growth. An application for a 255 home scheme (plus other uses onsite) was refused at appeal in 2020 (ref. 192025) for reasons including “coalescence between Tiptree and Tiptree Heath.” Other

potential concerns include traffic, including noting the adjacent primary school (the previous scheme proposed school parking, but the potential for this to be effective is not entirely clear). In summary, there are a range of issues and the scheme, as previously proposed, would contribute little towards strategic objectives. There is a clear argument for considering the site in combination with other land parcels, with a view to potentially realising relief road / bypass aspirations, rather than considering a piecemeal village extension.”

3.19. The SEA references the NP Steering group’s assessment of the preferred growth scenario which relates solely to delivery of the link road. Other options are not supported:

“ . . . primarily because the opportunity to deliver a new strategic link road across the north of the village, in line with the emerging Local Plan proposal/requirement, would not be realised.”

3.20. As already addressed in Section 2, there is no evidence to suggest that the proposed new link is needed, would be of benefit, is deliverable, or represents the optimum route for a new link road. As such, not only does reliance on it to justify sites selected give rise to concerns in respect of meeting the basic condition, it also becomes a legal compliance issue in respect of Regulation 16 of the SEA Regulations.

Ensuring the SA/SEA is legally compliant

3.21. As we set out in our Regulation 14 representations, case law (see Cogent Land LLP v Rochford District Council [2012] EWHC 2542 (Admin)) confirms that defects in the SA/SEA process can be addressed.

3.22. However, Cogent also confirms the need to avoid any additional SA/SEA work undertaken being merely ex post facto justification of a strategy already agreed. It will be necessary for defects in the SA/SEA to be addressed and for the TNP to be reviewed to reflect these.

We have three traffic studies – at least one persuaded CBC to mention the road in the CLP. Cottee considered a scenario of no link road, both without and with A12 improvements. Furthermore, note SS14 now requires ‘strategic traffic appraisal’ rather than detailed traffic assessment’. Fact is though, the chosen sites came out top before the link road was considered.

