

Tiptree Neighbourhood Plan – Joint Examination Response – December 2020

Overview

This note has been prepared jointly between Colchester Borough Council and Tiptree Parish Council to accompany the Examiner’s Report into the Tiptree Neighbourhood Plan. Although the Decision Statement published with the Report, confirms the acceptance of the recommendation of the Examiner not to proceed to Referendum for a number of reasons, there are elements within the report which both CBC and TPC consider to be important.

Following the Regulation 16 Consultation of the Tiptree Neighbourhood Plan in Summer 2020, John Parmiter FRICS MRTPI, an independently appointed examiner, commenced examination of the Tiptree Neighbourhood Plan in August 2020. The Examiner issued his report on 9 October 2020, recommending that the Neighbourhood Plan (NP) could not proceed to referendum. Colchester Borough Council (CBC) and Tiptree Parish Council (TPC) are both extremely disappointed with this outcome.

Despite this, both CBC and TPC remain committed to progressing the Tiptree Neighbourhood Plan and will continue to work in partnership as the plan making process resumes at the Regulation 14 stage.

Key Issues

Prior to publication of his report, a fact-checking exercise led to the examiner revising his conclusions. Nevertheless, CBC and TPC remain concerned that the Examiner’s Report, may appear to be inconsistent in places and it is unclear what the Examiner’s views are. As the Examiner’s Report will be a material evidence document in future plan making for both the Section 2 Emerging Local Plan Examination and future iterations of the Tiptree Neighbourhood Plan; we consider it fundamental to identify these inconsistencies from the outset and our joint response.

The main issues identified in the Examiner’s Report are:

1. Availability and reference to evidence for the spatial strategy;
2. The Strategic Environmental Assessment (SEA) and consideration of alternatives; and
3. The apparent conflict between the Tiptree Neighbourhood Plan and Section 2 Emerging Local Plan.

Availability and reference to evidence for the spatial strategy

Paragraph 5.2 of the Examiner’s report states *‘Overall, I find the dominating reliance on community objectives within the SEA process, without proportionate and robust*

evidence to support the spatial strategy, to be flawed.' This statement is supported by a footnote that suggests the evidence does exist but was not provided by the Qualifying Body (QB) in its submission material.

Unfortunately, there appears to be confusion, or a different interpretation, between the submission of documents to the Local Planning Authority (LPA), as per Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 and submission of documents to the Examiner.

The Neighbourhood Planning Regulations list the submission documents as:

- Proposed Neighbourhood Plan;
- Designation Area Map;
- Consultation Statement; and
- Basic Conditions Statement

In addition to the submission documents listed above, evidence base documents will be also be prepared to support, justify and inform the policies, allocations and spatial strategy of the NP. Further assessments may also be required by EU regulations such as the Strategic Environment Assessment, Habitats Regulations Assessment and/or Appropriate Assessment. This was the case for the Tiptree Neighbourhood Plan. The Examiner's approach in the Tiptree examination was to only considered the submission documents (as listed in his report paragraph 1.9) excluding all evidence base documents.

Despite the efforts of CBC and TPC, although the Examiner has accepted the spatial strategy evidence base document exists (Site Selection Process Report) and was provided to the LPA as a submission document but he has not considered this and other evidence base documents within the Examination, as these were not considered to have been submitted to the Examiner.

Historically, CBC have hosted the submission documents on the Councils Neighbourhood Planning Webpages and the relevant Parish Council have hosted the Evidence Base Documents. This was also the approach taken for the Tiptree Neighbourhood Plan. The Examiners in the past have not made any distinction between the evidence base and submission documents being hosted separately.

Unfortunately, no opportunity was given to the parties to address this during the course of the Examination. In our opinion, this is a very harsh approach and in order to prevent this issue arising in future, we will agree with the relevant Examiner for any NP the publication of both the submission and evidence base documents.

This issue is also identified elsewhere in the report. Paragraph 4.3 where the Examiner states the evidence is only missing from the plan *itself*, implying that the Examiner has considered the Site Selection Process Report and other supporting evidence.

Paragraph 6.3 also states that the Site Selection Process Report was not submitted.

The SEA and considerations of alternatives

Within Section 5 '*conclusions on core issues*' of the Examiner's Report, the Examiner states "*The SEA process should not be a slave to the plan-maker's objectives (and especially 12 and 14) where there are reasonable alternatives available*". He continues with "*Overall, I find the dominating reliance on community objectives within the SEA process, without proportionate and robust evidence to support the spatial strategy, to be flawed*". These conclusions also appear in paragraphs 2.8 and 6.4. However, as noted above, the supporting footnote and paragraph 4.3 admit the evidence does exist and the examiner's conclusion that there are reasonable alternatives is based on his view that the Emerging Local Plan presents a reasonable alternative (see below).

The apparent conflict between the Tiptree Neighbourhood Plan and Section 2 Emerging Local Plan

The Examiner also raised concerns that the Tiptree Neighbourhood Plan may conflict with the Section 2 Emerging Local Plan Policy SS14 and supporting Policies Map. As outlined in paragraph 4.3 the Examiner states "*I cannot see within the submitted NP itself why the spatial strategy diverges, albeit to some degree, from the eLP's 'broad areas of growth'*". Although he acknowledges in paragraph 5.3, "*The LPA considers the NP to broadly conform with strategic policy*", he does not provide his own conclusion on the matter.

For the avoidance of doubt, CBC and TPC are in agreement that the Neighbourhood Plan **does not** diverge from the Emerging Local Plan.

Similarly, the reference to unanticipated growth to the north of Tiptree (Elms Farm Policy TIP14) in the Examiners report paragraph 3.23 is not factually correct. The Emerging Local Plan reflects the status of the emerging Tiptree Neighbourhood Plan at the time it was submitted (October 2017). The Tiptree NP does not need to reflect the broad areas of growth, the Emerging Local Plan reflected the draft Tiptree NP.

Regrettably, CBC and TPC were not provided the opportunity to explore this issue further during the Examination.

In any event, the Section 2 Emerging Local Plan Examination is likely to commence in early 2021. During the Section 2 Examination and through the continued work for the Tiptree Neighbourhood Plan, Policy SS14 and the accompanying policies map will be able to be further explored to ensure the two plans are aligned, informed by any updated evidence informing the NP and representing a united plan led approach.

Other Considerations

Following Submission of the Tiptree Neighbourhood Plan, the Council received the appeal decision from the Secretary of State for Barbrook Lane, granting permission for 200 dwellings. The Examiner addresses this decision in his report at paragraph 6.9. This will need to be considered through the redrafting of the Tiptree Neighbourhood Plan.

Conclusion

The outcome of the Tiptree Neighbourhood Plan Examination was not anticipated by either CBC or TPC and the way the Examination was conducted did not allow for any dialogue or consideration about the existence, status, justification or interpretation of evidence relating to many of the matters raised.

The need to now revise the NP will enable any reassessment and/or updates to evidence where necessary. This will ensure that the Tiptree Neighbourhood Plan can take into account a number of new considerations, particularly, the grant of planning permission on land at Barbrook Lane. It can also seek to address some of the more detailed concerns raised by the Examination and ensure a more robust link between the Plan and the evidence base is overtly obvious.

CBC and TPC remain committed to working in partnership to ensure a plan led approach to development in Tiptree through a Neighbourhood Plan. CBC will continue to support the Parish Council to take forward the extensive work and dedication of the NP group to date, to build on the significant evidence base and initial iteration of the NP to provide a strong planning framework for Tiptree.