



Appeal Decision

Inquiry Opened on 13 December 2022

Site visit made on 12 December 2022

by B J Sims BSc (Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2023

Appeal Ref: APP/A1530/W/22/3305697

Land at Broadfields, Wivenhoe, Colchester.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Taylor Wimpey UK Limited against the decision of Colchester City Council.
 - The application Ref 210965, dated 26 March 2021, was refused by notice dated 14 June 2022.
 - The development proposed is: Construction of residential development (Use Class C3), access, landscaping, public open space, and associated infrastructure works.
 - The Inquiry sat for 5 days on 13-16 and 20 December 2022.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Evidence was heard conventionally in person on Days 1 to 4, the Inquiry resuming virtually on Day 5 for closing submissions only.
3. The application was refused by the Council contrary to a recommendation for approval by its officers. However, this has no effect on the planning issues arising in this entirely fresh and independent assessment of all of the evidence for and against the proposed development.
4. On the day before the opening of the Inquiry, I made an inspection of the site and surrounding area in accordance with an itinerary provided by the Appellants, Taylor Wimpey UK Limited (TWL), Colchester City Council (CCC) and Wivenhoe Town Council (WTC), taking in agreed viewpoints and accompanied by representatives of those parties. It was agreed at the close of the Inquiry that no further site inspection was necessary.
5. TWL and CCC have entered into an agreement under Section 106 of the Act that, if the planning permission sought in this appeal were granted, the developer would provide: (1) financial Education contributions towards Early Years and Childcare and Secondary School Transport; (2) 20% of the 120 dwellings proposed as affordable homes, 19 as rented and five shared ownership dwellings; (3) financial contributions towards archaeological and ecological mitigation; (4) financial contributions for improvements to and community use of Broad Lane Sports Ground and Broomgrove Junior School swimming pool; and (5) financial contributions for football pitch delivery and a

locally equipped area for play (LEAP). The degree to which these planning obligations are material to this appeal is considered below.

Reasons for Refusal and Planning Issues

6. The application was refused for two reasons of (1) conflict with adopted local and neighbourhood planning policy on the location of development and adverse impact on the landscape and (2) lack of a legally binding mechanism to secure a range of planning obligations.
7. CCC did not pursue the second reason for refusal at appeal on completion of the Section 106 agreement.
8. The main issues for consideration in the appeal are: the principle of the development with respect to relevant planning policy and the location of the site, partly outside the defined settlement boundary of Wivenhoe; the effect the development would have on the appearance and character of the local landscape; the effect of planning constraints on that part of the appeal site that lies within the settlement boundary of Wivenhoe; and any planning benefits that would result from the appeal scheme.
9. I also consider matters related to public access, drainage and ecology.

Planning Law and Policy

Development Plan

10. It is trite law that the appeal proposal is to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is such a material consideration, emphasising that the planning system should be genuinely plan-led.
11. The development plan includes the adopted Colchester Borough [sic] Council Local Plan 2013–2033, North Essex Authorities Shared Strategic Section 1 (CLP1), the Colchester Borough Local Plan 2017–2033 Section 2 (CLP2) and the made Wivenhoe Neighbourhood Plan 2019 (WNP).
12. The policies cited in connection with the appeal are summarised below.

Local Plan

13. CLP1 Policy SP1 reaffirms the national presumption in favour of sustainable development. CLP1 Policy SP3 sets the spatial strategy for North Essex with local authorities identifying a hierarchy of settlements where development will be accommodated according to role, sustainability, capacity and local needs.
14. CLP2 Policy SG1 and Table SG1 provide the spatial strategy and hierarchy for Colchester, designating Wivenhoe as a Sustainable Settlement for appropriate growth
15. CLP2 Policy SG2 and Table SG2 establish the overall City housing delivery requirements, including 250 new dwellings in Wivenhoe.
16. CLP2 Policy SS16 acknowledges the provisions of the made WNP, including its definition of the settlement boundary, and states that development outside that boundary will not be supported unless the WNP or other policy specifically allows for it.

17. CLP2 Policy ENV1 Part E (ENV1.E), regarding the environment of the countryside, requires a careful balance between identified development needs and the roles and identities of settlements, and protects the intrinsic beauty of the countryside, valued landscapes and visual amenity.
18. CLP2 Policy OV2 includes the provisions that residential development in the countryside outside defined settlement boundaries should demonstrate respect for the character and appearance of the landscape and biodiversity.
19. CLP2 Policy DM15 requires all development to achieve high standards of design and amenity in response to context, respecting and enhancing the character of the site and surroundings with an appropriate mix and density of uses.

Neighbourhood Plan

20. The WNP defines the northern boundary of the settlement in the area east of the existing Broadfields estate along a line of electricity pylons. Figure 35 of the WNP shows an area of open space north of the pylon line, outside the settlement boundary and between the Broadfields estate and Broad Lane Sports Ground to the east. A central area, immediately north of the pylon line, is delineated for new sports pitches. The area immediately south of the pylons and within the settlement boundary is designated for housing.
21. WNP Policy WIV29 is one of four policies which together allocate sites for the 250 dwellings required by CLP2 Policy SG2. Policy WIV29 concerns the land behind Broadfields and, with reference to Figure 35, allocates a 4.06ha area south of the pylons and inside the settlement boundary for a minimum of 120 houses, equivalent to almost half the Wivenhoe requirement.
22. The housing allocation of Policy WIV29 is subject to a range of detailed conditions or criteria. These include that: a minimum of 45 of the dwellings shall be bungalows, terraced properties or apartments of one or two bedrooms; no more than 25 of the dwellings shall have four or more bedrooms; 20% of the dwellings should be affordable homes; there would be no detrimental impact on wildlife; vehicle access shall be from Richard Avenue within the existing Broadfields estate; 2ha of land adjacent to Broad Lane Sports Ground shall be provided for additional sports pitches; footpath-cycleways should be provided to link the allocated housing development to Elmstead Road and Broad Lane Sports Ground, to the built-up area of Wivenhoe and to the open area south of the housing site; a financial contribution shall be made towards a footpath/cycleway link to public Footpath 14 to the south east; and financial contributions shall be made towards open spaces, sports and recreation facilities in line with CLP policies.

Consistency with the National Policy

23. There is no dispute that the foregoing policies are essentially consistent with the NPPF and are to be regarded as up-to-date.
24. Moreover, there is no dispute that CCC can demonstrate a housing land supply of just over five years.
25. Therefore, this appeal would fall to be determined also with reference to the presumption in favour of sustainable development promulgated by paragraph 11 of the NPPF and, in particular, in accordance with sub paragraph 11(c), which states that, for decision making, applying the presumption means

approving development proposals that accord with an up-to-date development plan without delay. It is established that this requires an assessment to be made of whether the appeal proposal complies with the development plan taken as a whole.

The Appeal Site and the Proposed Development

26. The site of this appeal occupies an area of some 15ha in total. It includes all of the land identified in Figure 35 of the WNP north of the pylons, extending almost to Elmstead Road, and most of the land allocated for housing to the south of the pylon line, save for an area of 0.35ha inside the southern edge of the allocation. This land is subject to a deed of dedication in favour of Fields in Trust (the FIT land). In addition, the appeal site includes an undeveloped, vegetated area immediately to the south east, comprising the Wivenhoe Cross Local Wildlife Site (LoWS).
27. The proposal is to erect the requisite minimum total of 120 dwellings including 24 (20%) affordable homes, 45 dwellings of one or two bedrooms and 25 dwellings of four bedrooms, precisely in line with the mix specified in WNP Policy WIV29.
28. 85 of the dwellings would be accommodated within the area of land allocated for housing by Policy WIV29 and the other 35 would be situated north of the pylon line, outside the designated settlement boundary. The total built footprint would be some 3.74ha.
29. Vehicle access would be from Richard Avenue within Broadfields, as specified. The layout would include an attenuation pond within the south east corner of the site and the requisite amenity, play space, open space and car parking as well as the pedestrian-cycleway links and 2ha of sports pitches, in the terms of Policy WIV29. The open space would occupy a roughly triangular area just north of the houses, with the sports pitches beyond to the north east.

Reasons

Principle

Location outside the settlement boundary

30. The layout of the appeal development would place 35 of the 120 dwellings proposed to the north and clear of the line of pylons that borders the settlement of Wivenhoe and thus outside the settlement boundary, as defined in the adopted WNP.
31. It has to be acknowledged that all of the proposed development would be within the total area subject to Policy WIV29 and that the greater part of the built development, comprising the other 85 dwellings, would be contained within the land behind Broadfields specifically allocated for housing by Policy WIV29 of the WNP in accordance with CLP Policy SG2.

Conditions of Policy WIV29

32. Policy WIV29 sets down a range of conditions to be met by any development within the allocation of land behind Broadfields. These conditions are considerably prescriptive but can reasonably be read as development criteria applicable to any application.

33. It also has to be acknowledged that, as well as making a substantial contribution towards the adopted housing requirement for Wivenhoe, the proposed development would also accord, or potentially accord, with every one of those conditions: there would be the minimum 45 one- or two-bedroom dwellings and the maximum 25 houses of four bedrooms; the required 24, or 20%, of the dwellings would be secured as affordable homes by the Section 106 agreement; vehicle access would be from Richard Avenue; 2ha of land would be given over to new sports pitches adjacent to the Broad Lane Sports Ground, the footpath and cycleway links sought could be secured by planning conditions, as considered below; and financial contributions for sports facilities would also be secured by the legal planning obligation.

Overall strategy and plan-led system

34. By thus largely meeting the adopted policy requirements, it can be accepted that the proposed development would also be essentially compliant with the broad spatial strategy of CLP1 Policy SP3, in that the whole development would be closely associated with Wivenhoe as a sustainable settlement for appropriate growth. That is unlike examples at Brook Meadows, Tiptree and East Road, West Mersea, where the respective proposals did not reflect the spatial strategy in the same way.
35. Be that as it may, it is inescapable that a very significant part of the built element of the proposed development would lie clearly outside the settlement boundary defined by the up-to-date WNP. This is contrary to the provision of CLP2 Policy SS16 that development outside the Wivenhoe settlement boundary will not be supported in the absence of other policies specifically allowing for it. No such permissive policy has been cited in this case.
36. The appeal site is affected by the urban influences of Broadlands and the buildings and enclosures of the Sports Ground, such that it is of urban edge in character rather than truly open countryside. However, I have not been made aware of any such distinction in policy terms. Therefore, to the extent that the built development would lie partly outside the settlement boundary, the appeal proposal would be at odds with CLP2 Policies ENV1.E and OV2, neither of which make any provision for residential development outside settlements unless it is related to rural needs.
37. Notwithstanding the identified degree of detailed policy compliance, in terms of location the appeal proposal is therefore unacceptable in principle.
38. Moreover, I consider that such a significant breach of up-to-date planning policy is not to be regarded as a minor deviation from the development plan but would undermine the genuinely plan-led system promulgated by the NPPF.

Landscape

Evidence and scope of assessment

39. The application was accompanied a Landscape Visual Impact Assessment (LVIA) and the appeal by a set of Agreed Visual Representations (AVRs) based upon agreed viewpoints (VPs). There is no disagreement between TWL and CCC with respect to the methodology of the LVIA or the accuracy of the AVRs. It is also common ground that the landscape of the area that includes the appeal site is of medium value, susceptibility to change and sensitivity, being within the Wivenhoe Farmland Plateau Landscape Character Area (LCA) B8 but

devoid of any specific protective landscape designation. Dispute arises only with respect to the magnitude and effect of the proposed development on the appearance and character of that landscape.

40. The first reason for refusal refers to landscape harm particularly when the site is viewed from Elmstead Road. The terms of that reason are thus non-exhaustive and can properly be taken to extend to the wider landscape effects of the proposed scheme, including from the adjacent Wivenhoe Cross LoWS, even though no prior assessment has identified views to or from the appeal site specifically. Assessment of the landscape effects of the appeal scheme necessarily includes consideration of the creation of new sports pitches, which are integral to any scheme within the WIV29 allocation.
41. However, whereas the LVIA properly considered the effects of the appeal scheme as a whole, it is important in assessing this appeal to take into account, by way of comparison, the potential material landscape impact of any residential scheme contained within the settlement boundary in strict compliance with Policy WIV29. My assessment thus considers in particular the effect of the built development north of the pylons.
42. The question arises as to whether the LoWS is to be regarded as an area of valued landscape in terms of CLP2 Policy ENV1.E. Paragraph 174(a) of the NPPF requires valued landscapes to be protected but in a manner commensurate with their statutory status or identified quality in the development plan. Otherwise, this term is not defined in national policy. Nor is the LoWS expressly identified as valued landscape in the development plan. Recourse is had to Landscape Institute Technical Guidance (TGN1/21) under which the LoWS is capable of being regarded as valued landscape due to its defined natural heritage value. Irrespective of any such definition, the LoWS is an agreed receptor of medium to high value in the LVIA and it is plainly evident that it is a locally valued part of the landscape setting of Wivenhoe and the appeal site. I consider that the effect of the appeal scheme upon the LoWS should be assessed on that basis.

Practical Effects

43. The land east of Broadfields currently comprises open agricultural fields. However, as noted above, its character is influenced by the existing built residential development of Broadfields itself and by the buildings and sports pitches of Broad Lane Sports Ground on its western boundary. Due to these urban influences, it is common ground that the area displays something of an urban fringe character. The allocation by WNP Policy WIV29 for additional sports pitches and housing within this land is a logical means of providing for a substantial part of the planned development requirements for Wivenhoe. At the same time, the land is still contiguous with the essentially agricultural encircling setting of Wivenhoe, as defined by the Farmland Plateau LCA, which is itself adjacent to the Bromley Heaths LCA.
44. WTC understandably sees some logic in adopting the pylon line as the settlement boundary at this point. However, the pylons do not form a limit to built development, as demonstrated by their presence through the centre of the existing residential area of Broadfields. There is more significance in the fact that the area allocated by Policy WIV29 and Figure 35 of the WNP is in part contained within, or tucked into, a recess in the present edge of the built-up area to the south of the pylons. Any northern extension of housing beyond the

- pylons would thus appear more visibly exposed and prominent when viewed from the north, in effect reducing the extent of the Farmland Plateau LCA and enlarging the adjacent Townscape LCA.
45. Views of the appeal site from the north, at agreed VPs 1 and 2 within the field at the Elmstead Road boundary, include the built development of Broadfields and the Sports Ground opposite. However, the site boundaries are distinguished by substantial mature trees and hedges and there is a long vista to the south eastern boundary to the LoWS over a pleasant agricultural landscape (albeit I do not go so far as to agree with the landscape witness of CCC who described it as stunning).
 46. From these northern viewpoints, built development limited to the area within the settlement boundary south of the pylons would not be prominently visible and mature trees along the south eastern boundary would still be seen in the distance.
 47. The greater extent of built development proposed in the appeal scheme, to include 35 houses north of the pylons, would obscure the view to the south eastern boundary, such that the nearer dwellings would still be seen through new boundary planting even after some 15 years of growth, according to the AVRs.
 48. The nearer, northern part of this view would be made less rural by the proposed sports pitches in any event, whether by the appeal scheme or any that were fully compliant with Policy WIV29.
 49. Even so, I consider that the urbanising influence of the appeal scheme, compared with any which excluded built development outside the settlement boundary in compliance with Policy WIV29, would have an adverse impact on the landscape setting of Wivenhoe when seen from VPs 1 and 2.
 50. From VPs 3 and 4 within the LoWS, the housing as proposed, or any other limited to within the settlement, would be seen between the boundary trees especially in winter. Significantly however, the appeal proposal would extend built development along the boundary of the LoWS by some 100m beyond the settlement boundary. This would affect the enjoyment of the LoWS as a feature already visited and valued locally, and potentially with the benefit of official public access, and so would add to the adverse landscape and visual impact of the development, compared with any scheme compliant with Policy WIV29.
 51. More distant views would be less significant. On Elmstead Road itself, only glimpse views of the development would be available to passers-by, compared with the open vista from VPs 1-2,. The same would be true from Brightlingsea Road to the east, from where the development would be seen from a distance across agricultural land and views would be filtered by intervening vegetation. From Footpath 14 and former mineral workings to the south east of the appeal site, views of the proposed dwellings would also be filtered by mature vegetation and mitigated by intervening distance.

Conclusion on Landscape

52. Overall, whilst the degree of adverse landscape and visual impact due to the appeal development in comparison with any scheme compliant with Policy WIV29 would be contrary to CLP Policies ENV1.E and OV2, the magnitude of

landscape change would of moderate influence and I accord it moderate weight, given the mitigating influences I have identified.

53. This conclusion is in contrast with the appeal decision on an outline housing proposal at Lowe Hill, Wem, where the Inspector was not provided with evidence to distinguish landscape impact on allocated and unallocated land.

Constraints

Agreed constraints

54. It is not disputed that the 4.06ha of land south of the pylons and settlement boundary originally allocated for housing is constrained by: a 6m wide no-build zone alongside the pylons; the root protection areas of mature trees, in particular along the whole eastern boundary; a drainage easement along the whole western boundary; and the practical exclusion from the site of the 0.35ha FIT land from the southern part of the site.
55. It is agreed that these constraints reduce the area available for built development by a total of some 1.08ha, to 2.98ha. Based on the full allocated area, the minimum 120 dwellings would result in an overall development density of just under 30 dwellings per hectare (dph – $120 \div 4.06$). Based on the allocation reduced only by the area of the FIT land, the density would increase to about 36dph ($120 \div (4.06 - 3.5)$). However, based on the net developable area, the built density would rise to a little over 40dph ($120 \div 2.98$). That is compared with the appeal proposal producing a development density of some 32dph ($120 \div 3.74$).
56. Dispute arises regarding whether these constraints could reasonably have been foreseen in the preparation of the WNP and also as to the significance of the higher development density over 40dph if the full required minimum 120 dwellings were constructed over the net developable area of the allocation.
57. I do not accept the submission of TWL in terms that these technical constraints are baked into the development plan such the development as proposed comes into conformity with it. Certainly, such constraints are material considerations, but they fall to be weighed, with others, against the evident non-conformity of the proposal with the development plan.

Implications of constraints

58. The line of pylons was a plainly visible constraint upon development when the WNP was prepared and the Strategic Environmental Assessment (SEA) of the WNP, whilst regarding 30dph positively as an appropriate density, also acknowledged the presence of the mature boundary trees.
59. The drainage easement was less visible and could understandably have been overlooked at the time the WNP was in preparation, whilst the impediment to the FIT land coming forward appears to have emerged since.
60. When the WIV29 allocation was selected, as then promoted by the landowner, it was reasonable, at the level of assessment proportionate to plan preparation, that the broad overall development density of 30dph was assumed, including for the purpose of SEA. As adopted, Policy WIV29 sets a minimum of 120 dwellings on the 4.06ha housing allocation but sets no cap on the actual number, in effect treating the 30dph as an advisory baseline figure.

61. No matter whether or in what manner the WIV29 site and the factors limiting its developable area were considered in the preparation of the WNP, it is now plainly constrained for the purposes of designing a scheme compliant both with the conditions of Policy WIV29 and with the requirements of CLP2 Policy DM15. These are that development should achieve high standards of design and amenity in response to context, respecting and enhancing the character of the site and surroundings with an appropriate mix and density of uses. It is inescapable that, to provide the policy minimum 120 dwellings, either the development density has to increase to around 40dph or part of the requirement must be provided elsewhere.

Consideration of alternatives

62. Unlike the technical constraints imposed by the pylons, the boundary trees and the drainage easement, the current non-availability of the FIT land is a land assembly matter, and the FIT land remains part of the WIV29 allocation, with a development capacity of perhaps 8 to 10 dwellings. Whilst there is a natural logic in extending the housing northward, with the sports pitches beyond, the mere non-availability of part of the allocation to the present Appellants is not by itself a justification for extending development outside the settlement boundary.
63. As to the technical constraints, it is not a matter for this appeal to consider alternative schemes to that refused by CCC. Besides, beyond some putative alternative layouts put forward by WTC, no such alternative scheme is available for comparison on an equal basis.
64. However, it is material to this appeal whether a higher density scheme could satisfy policy requirements. Density is only one aspect of character. There is a significant degree of flexibility within the conditions of Policy WIV29 for an increase in the number of small units beyond the minimum 45 currently proposed and for a decrease in the number of larger homes included in the appeal scheme below the current 25. With a commensurate reduction in car parking space, it is reasonable to consider that a scheme of 40dph could be designed within the original allocated housing site, as now constrained, without extending built development outside the defined settlement boundary. Such a scheme might include buildings of 2.5 or even 3 stories and might incorporate less landscape planting than the appeal design.
65. Beyond my own inspection there is little evidence of the make-up of the existing Broadfields estate in terms of building type and height or housing mix and none as to its overall numerical development density. However, an assertion by WTC that the estate contains one-bedroom flats and studio apartments is credible.
66. Whilst TWL promote the appeal design as being landscape-led, consistent with its urban fringe location, in any design the site itself would remain well-screened by mature vegetation. The compliance with Policy DM15 of any alternative higher density scheme would depend mainly upon its architectural design and layout.

Conclusion on site constraints

67. On the limited evidence available, I am naturally left with a measure of uncertainty as to what could be achieved in detail by way of an alternative

policy-compliant design on the constrained allocated site. However, I am persuaded that, in principle, it is possible that a higher density but still high-quality design could be developed, incorporating an appropriate housing mix, whilst respecting local context and character.

68. While this possibility remains, it militates against extending built development outside the defined settlement boundary.

Benefits

69. The development would provide market and affordable housing in accordance with the development plan, contributing to its requirements for homes in Wivenhoe and across the City at a time when the housing land supply is only just above the requisite minimum 5 years.
70. There would be some economic benefit arising from the creation of jobs and financial input to the local economy from potential residents.
71. Additional public sports pitches, open space and pedestrian-cycle links would be provided by the development, as well as public access to the LoWS.
72. There would be substantial biodiversity net gain evaluated at over 35%, well over the 10% stipulated in the NPPF and potentially in law.
73. Otherwise, the contributions of the Section 106 agreement essentially do no more than meet the requirements and effects of the development and carry little weight as benefits.
74. The benefits identified, taken together, militate in favour of the appeal scheme, in particular the affordable housing element. Whilst similar benefits might arise from a scheme compliant with Policy WIV29, there is no guarantee that such a scheme is bound to come forward in a timely manner or at all.
75. In the circumstances, I consider that the weight attracted by the planning benefits of the appeal scheme is significant.

Other Matters

Public Access

76. WTC are concerned that public pedestrian-cycle access be provided in line with WNP Policy WIV29.
77. In particular, WTC seek a link between Elmstead Road and Broad Lane Sports Ground via the appeal site to avoid a section of Elmstead Road which lacks a footway. Although the construction of such a connection is itself beyond the scope of the appeal proposal, a route for a link could be secured by way of a landscape planning condition to include provision of a corridor via the northern boundary hedge.
78. A further link via the FIT land to connect the south east corner of the site to public open space to the south west and improvement to Footpath 14 could also be secured by planning condition. Other links between Broadfields and the Sports ground form part of the appeal proposal in any event.
79. These measures would meet the relevant requirements of Policy WIV29.

Drainage

80. Appropriate drainage could be secured by way of a planning condition requiring advance approval of a sustainable surface water drainage system, including the attenuation pond shown on the submitted layout plans, which could also function as permanent wetland.

Ecology

81. Appropriate ecological mitigation and net gain could be provided by way of a detailed construction environmental management plan and a landscape and ecological management plan to include the LoWS, together with a lighting scheme designed to avoid harm to bats, all secured by planning conditions.

Planning Obligations

82. I am satisfied on the basis of a statement of compliance by CCC that all of the planning obligations provided by the Section 106 agreement would meet the tests of Regulation 122 of the Community Infrastructure Levy Regulations and national policy and guidance that they be necessary and directly related in scale and kind to the development.

Planning Conditions

83. In addition to the conditions specifically mentioned above, a schedule of planning conditions agreed without prejudice at the Inquiry would ensure that the effects of the development could be controlled as necessary, including with respect to construction methods, provision of highway access in accordance with Policy WIV29, tree protection, archaeological interests, construction materials, working hours during construction, waste disposal and unexpected ground contamination. However, none of these provisos would overcome the planning objections I have identified.

Overall Planning Balance and Conclusion

84. I find above that the proposed built development, partially outside the settlement boundary defined in the WNP, would be unacceptable in principle, despite a certain degree of detailed policy compliance, and would undermine the plan-led system. This factor weighs substantially against the appeal.
85. I also find that there would be a level of adverse landscape and visual impact, carrying moderate weight against the appeal proposal.
86. It follows that the proposed development is not capable of being regarded as compliant with the development plan as a whole.
87. Accordingly, the proposed development requires other material considerations to justify it in the overall planning balance.
88. Whilst the constraints upon the allocated site are claimed to justify an expansion of the requisite minimum 120 dwelling development beyond the settlement boundary, I have concluded that it is possible that a policy-compliant scheme could be developed at the necessary higher density within the allocation and inside the settlement boundary. Accordingly, I accord the influence of the agreed identified constraints little planning weight in the present appeal.

89. I have found that the economic and planning benefits of the present proposal would carry significant weight, albeit all could also potentially derive from a policy-complaint scheme.
90. Even giving significant weight to the benefits, I conclude overall that the substantive objections of principle and adverse planning impact clearly outweigh those benefits. As a result, the proposed development would not amount to sustainable development in terms of CLP1 Policy SP1.
91. The overall balance of planning considerations therefore warrants dismissal of this appeal.

B J Sims

Inspector

APPEARANCES

FOR TAYLOR WIMPEY UK LIMITED - APPELLANTS:

Mr Peter Goatley of King's Counsel and Ms Sioned Davies of Counsel	Instructed by Savills
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They called:

Ms Vanessa Ross BA (Hons) PGBLA MA FLI	Arc Landscape Design and Planning
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Mr James Firth BA (Hons) MSc MRTPI	Director, Planning, Savills
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Round Table Session

Mr R Piggott MPlan MRTPI	Land Manager, TWL
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Mr S Caslin BSc (Hons) MSc MRTPI	Planning Manager, TWL
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FOR COLCHESTER CITY COUNCIL:

Mr Simon Pickles of Counsel	Instructed by Karen Syrett, Place and Housing Manager, CCC
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He called:

Mrs Alison Hutchinson BA(TP) MRTPI	Partner, Hutchinsons
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Ms Anne Westover BA Dip LA CMLI	Westover Landscape
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Round Table Session

Mr J Ryan	Planning Officer, CCC
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FOR WIVENHOE TOWN COUNCIL:

Cllr Mrs A Luxford Vaughan	WTC
Cllr A Aldis	WTC
C Cllr M Cory	Wivenhoe Ward and Essex CC
Prof J Black	

OTHER INTERESTED PERSONS:

Cllr M Burrows	Wivenhoe Ward
Cllr T Cain	Wivenhoe Town Mayor
Mr C Allan	Wivenhoe District Sports

DOCUMENTS SUBMITTED AT THE INQUIRY

ID.1	TWL Opening Submissions
ID.2	CCC Opening Submissions
ID.3	WTC Opening Submissions
ID.4	Cllr Cain Transcript
ID.5 and 5.1	Cllr Burrows Transcript and addendum
ID.6	Prof Black Transcript
ID.7	Mr Allan Transcript pp Sports Facilities Trust
ID.8	Viewpoint Locations
ID.9	Tree Locations
ID.10	Additional Suggested Condition
ID.11	Section 106 Planning Obligation
ID.12	WTC Closing Submissions
ID.13	CCC Closing Submissions
ID.14	TWL Closing Submissions
ID.15	Cllr Cory Individual Transcript