



Appeal Decision

Site visit made on 9 April 2025

by **A Knight BA PG Dip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th July 2025

Appeal Ref: APP/A1530/W/24/3352053

94 Maldon Road, Tiptree, Essex CO5 0BN

- 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 Witham Developments Limited against the decision of Colchester City Council.
 - The application Ref is 240421.
 - The development proposed is the erection of 5 new self-build dwellings, landscaping and associated works (with all matters reserved).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an outline proposal, with all matters reserved for future consideration. I have made my determination accordingly. Plans have been submitted indicating how five dwellings could be accommodated on the site. I have taken these into account for illustrative purposes only.
3. The third and fourth reasons for refusal refer to contamination and ecology. The Council is content that these concerns have now been addressed, save for the issue of whether a legally binding mechanism to secure planning obligations, including mitigation funding to overcome any adverse effects of the proposal on habitat sites, exists. I see no reason to view matters differently.
4. Since the determination of this application a revised National Planning Policy Framework (The Framework) has been published. The main parties have been given the opportunity to comment on any implications for the appeal.

Main Issues

5. The main issues are:
 - Whether the appeal site would be a suitable location for the proposed development, having regard to local and national policy, and;
 - The effect of the proposal on the character and appearance of the area.

Reasons

Location

6. The development plan is formed of Sections 1 and 2 of the Colchester Borough Local Plan (2021 and 2022 respectively) (the Local Plan). Policies SP1 and SP3 set out a presumption in favour of sustainable development and provide the spatial strategy for North Essex. The latter states that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role, and that future growth will be planned to ensure, amongst other things, that existing settlements maintain their distinctive character, and that their settings are conserved. The intention to provide a hierarchy of settlements for the purposes of new development is set out.
7. Policy SG1 sets out Colchester's spatial strategy. It focuses development on the urban area of Colchester, and identifies Tiptree as a sustainable settlement, part of the 'second tier' of the spatial hierarchy. It is stated that most such settlements are planned for appropriate growth. Policy SG2 sets out the distribution of new housing, including in Tiptree.
8. The pertinent requirement of Policy TIP01 of the Tiptree Neighbourhood Plan (2023) is that new development beyond the settlement boundary of Tiptree village only be permitted where it accords with Policies SG1 and OV2 of the Local Plan in respect of development in the countryside.
9. Policy OV2 sets out that residential development proposals beyond settlement boundaries and, as such, in the countryside, must respect the character and appearance of the landscape and built environment to safeguard the rural character of the Borough. Policy DM10 states that the Local Planning Authority will support proposals for self-build/custom build housing to meet demand as indicated by the relevant register.
10. In directing development to accessible locations, the above policies accord broadly to the Framework. They do not, however, prohibit development beyond the settlement boundary of Tiptree provided it would maintain its distinctive character, conserve its setting, and respect the character and appearance of the landscape and built environment to safeguard the rural character of the Borough. As such, there is no inherent conflict between the appeal scheme and the Council's overarching spatial strategy, subject to these further considerations.

Character and appearance

11. The appeal site (the site) is behind a detached dwelling; this is in the appellant's ownership and is part of established residential development alongside the reasonably busy B1022 Maldon Road. This runs through the large village of Tiptree on a broadly north/south axis. The environment here is characterised by the road, and by low-density, suburban development set out along it.
12. Save for some modest landscaping features, the site itself is largely undeveloped, comprising open grass and mature trees. Given its proximity to the road, it has a noticeably quiet, secluded, and tranquil feel, increasingly so as one moves westward within the site. In part, this is the effect of the undeveloped, open, and verdant nature of the land surrounding the site to the north, west, and south. Here

are found fields and woodland, made accessible by a footpath that runs along the southern border of the site, on through the countryside beyond.

13. In the wider local context, rearmost garden fences near the appeal site serve to indicate, broadly, the western edge of Tiptree. The settlement boundary follows the line of these enclosures, albeit not strictly, and the lay of the land reflects it; east of this point is suburban, residential development; west of it is open countryside.
14. From the approach to Tiptree along Maldon Road from the south, from the properties along Maldon Road near the site, from Pennsylvania Lane and Brook Meadows to the north, and from the footpath, the western edge of the village is readily discernible. The vast majority of the appeal site is not only beyond the formal settlement boundary but also, to the naked eye, tangibly outside of the village.
15. The clear distinction between the village and the open countryside beyond informs the sense of Tiptree as a distinct settlement surrounded by open countryside, some distance from the nearest large urban centres of Chelmsford and Colchester.
16. The proposal includes the introduction of five new dwellings to the site, accessed from the road. The evidence refers to the loss of some 24 trees, though I am mindful that the proposal is in outline form, and that an appropriate subsequent approach to landscaping could ensure that the number of trees on site is, at least, not reduced. There is space enough for generous gaps between dwellings, and for significant new planting, therefore.
17. Even so, the presence of five dwellings, however designed and laid out, along with the requisite access arrangements, lighting, inevitable domestic paraphernalia, and resultant residential activities would substantially suburbanise the site, eroding to a great degree its current undeveloped, quiet, and secluded character.
18. Furthermore, the proposal would extend the suburban, residential element of the village westward, puncturing the formal and visual boundary between the settlement and the countryside in striking fashion. This would be evident from within the site, from neighbouring properties, from the footpath, and from the fields beyond. It would run contrary to the fundamental character and appearance of the wider local area, and undermine the wider setting of Tiptree as experienced at its western edge.
19. In addition to the above, I have no evidence that the appeal site is unique amongst the undeveloped land abutting the western settlement boundary. As a result, allowing the appeal would, to my mind, risk the creation of a precedent, reducing the ability of the Council to resist similar development proposals, and undermining the plan-led system.
20. The proposed development would have a harmful effect on the character and appearance of the area, contrary to Local Plan Policies SP7, OV2, ENV1, and DM15 where they require development to respond positively to local character and context, respect the character and appearance of landscapes, preserve and enhance the quality of existing places and their environs, and conserve and enhance Colchester's natural environment and countryside.

21. As a result of the harmful effect of the proposal on the character and appearance of the area, the site would not be a suitable location for the proposed development, having regard to local and national policy. In this respect it would contravene Local Plan Policies SP1, SP3, SG1, SG2, OV2 and DM10, as well as Policy TIP01 of the Tiptree Neighbourhood Plan. These policies seek to direct development to the most accessible locations, and to control development in a plan-led fashion.

Other Matters

22. An unsigned draft unilateral undertaking to provide mitigation for the increased pressure on local facilities and a proportionate RAMS contribution in respect of habitats sites has been provided. The Council raises no objection to the terms of the undertaking but notes that, as the undertaking is incomplete there is no appropriate mechanism to secure the contributions.
23. Though some time has passed since the appeal was submitted, I am not aware that the situation has changed. The contributions in question are to mitigate the effects of the development, they are not benefits capable of affecting the planning balance so as to overcome the harm to character and appearance that I have identified above. It has not been necessary for me to consider the undertaking in detail, therefore.

Planning Balance

24. The Self-Build and Custom Housebuilding (SBCH) Act 2015 requires local authorities to create a register of those seeking serviced plots of land for SBCH projects, and to have regard to it when carrying out planning functions. The Housing and Planning Act 2016 states that local planning authorities must give suitable planning permissions to meet the demand for SBCH. The Planning Practice Guidance states that SBCH registers are likely to be material considerations in decisions involving relevant proposals.
25. The delegated officer report sets out that, at the time of its decision at least, the Council did not consider there to be a shortfall in SBCH plots. In its statement of case, however, it refers me to an appeal decision in which the reverse is identified¹. Moreover, the Council has not contested detailed information supplied by the appellant to show a shortfall, nor that this triggers the provisions of paragraph 11(d) of the Framework. I proceed accordingly.
26. The proposal would deliver five SBCH plots, which could be built out quickly and contribute towards addressing the identified need for such housing, as well as towards increasing the housing stock generally. I attribute significant weight to these benefits.
27. Notwithstanding its position beyond the settlement boundary, the site is within walking distance of services, facilities, and a range of public transport options. It would make a more effective use of land by increasing the density of development. The Framework is supportive of these features.
28. There would be temporary economic benefits associated with the construction phase. Thereafter, there would be ongoing local economic benefits relating to the occupation of the site, and local facilities would benefit from increased demand.

¹ Appeal Ref APP/A1530/W/24/3340735.

29. Even so, the proposal would not secure a well-designed place. The harm to the character and appearance of the area and to the plan-led approach, particularly in respect of the western boundary of Tiptree, would be such that overall, the adverse impacts of the development would significantly and demonstrably outweigh the benefits.
30. The appellant has drawn my attention to two previous appeals concerning SBCH development². In the first of these, the appeal site is described as being '*enclosed by development to either side on Sturt Green and Rolls Lane, and at the rear*' such that the proposal would comprise infilling, and not '*development extending beyond the outer edge of built form on Sturt Green*'. By contrast, I have found that the proposal before me would extend beyond the edge of Tiptree, and set out the harm that would arise from that.
31. In the second appeal, the effect of the proposal on the character and appearance of the area was not a main issue and as far as is evident, not a concern to the Council. The scheme before me is very different in that respect and raises different issues.
32. Insofar as the significance of SBCH under-provision is concerned, I have reached similar conclusions to the two previous Inspectors. However, the other circumstances before me, which are different to those before the previous Inspectors, have led me to a different conclusion overall.

Conclusion

33. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
34. The appeal is dismissed.

A Knight

INSPECTOR

² Appeals Refs APP/T0355/W/22/3309281 and APP/T0355/W/23/3314990 & APP/W3520/W/23/3316136.