



Appeal Decision

Site visit made on 2 September 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2025

Appeal Ref: APP/A1530/W/25/3361091

Land R/O Bonnie Blue Oak Public House, 40 Oak Road, Tiptree, Essex CO5 0NF

- 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 Mr P Hiller against the decision of Colchester City Council.
 - The application Ref is 223122.
 - The development proposed is the development of the site for 29 dwellings (mix of housing types).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application subject of this appeal was made in outline form with all matters reserved for future consideration. Accordingly, the submitted plans can only be taken as indicative at this stage.

Main Issues

3. The main issues are:
 - whether the proposed development would be suitably located having regard to relevant development plan policies concerning the provision of housing;
 - the effect of the development on the character and appearance of the area;
 - the effect of the proposal on ecology and biodiversity;
 - whether the proposal makes adequate provision for planning obligations;
 - whether the site is suitable for residential development in respect of contamination; and
 - whether the proposal makes satisfactory provision for flood risk and drainage.

Reasons

Location of proposed development

4. The appeal site is located on the northern edge of Tiptree, to the rear of the Bonnie Blue Public House (PH) and its car park. Existing residential development lies to the south along Oak Road, while to the north and east the land opens into agricultural fields and paddocks, with a public footpath running along the eastern boundary. The site is predominantly open grassland with some boundary

vegetation and forms part of the transition between the built-up area and the surrounding countryside.

5. The appeal site lies predominantly outside the defined settlement boundary for Tiptree. The development plan defines settlement boundaries to manage the location of housing growth. The spatial housing strategy, set out in Policy SG1, directs growth to within defined settlement boundaries in accordance with identified allocations. Policy SS14 makes clear that proposals for development outside these boundaries are not supported, while Policies ENV1 and OV2 seek to control development in the countryside. The Tiptree Neighbourhood Plan, through Policy TIP01, reflects this approach by guiding new residential development to allocated sites within the settlement boundary.
6. The proposal is not on an allocated site, and the majority of the land lies outside the defined settlement boundary. Bringing forward housing here would be contrary to the plan-led approach, representing a significant extension of the settlement into open countryside. Such an approach would undermine the adopted strategy for distributing housing and managing settlement growth.
7. The appellant points to the site's proximity to two strategic housing allocations, arguing that it would logically round off the edge of the settlement. However, those allocations were selected through the plan-making process, in which alternative sites and boundary options were considered in light of infrastructure capacity, environmental impacts, and other considerations. The appeal site lies beyond the established boundaries, and its inclusion would represent piecemeal, incremental growth outside the planned strategic framework. It would result in encroachment into the countryside, eroding the settlement's defined edge and weakening the clear distinction between the built-up area and the surrounding open rural land.
8. The scale of development indicated would not represent a modest infill but a substantial outward expansion of built form representing a significant encroachment into the countryside, at odds with the adopted housing distribution strategy.
9. The site's promotion through the Council's Call for Sites process is noted. However, it remains subject to assessment and examination. Its promotion does not mean the site is suitable or that it will necessarily be allocated for development. The evidence before me indicates it is not allocated and there is no certainty it will be allocated in the future.
10. Given the above, the proposed development would not be suitably located and would be contrary to the spatial housing strategy. It would conflict with Policy SP1 of Colchester City Council's Section 1 Local Plan (2021), Policies SG2 and SS14 of the Section 2 Local Plan (2022), and Policy TIP01 of the Tiptree Neighbourhood Plan insofar as they seek to ensure proposals for new housing are well located, within defined settlement boundaries and allocated sites, and in-line with the spatial housing strategy.

Character and Appearance

11. The site is an irregular parcel of grassland and scrub located to the rear of the Bonnie Blue PH and associated parking area, with existing residential development to the south along Oak Road and to the south-west along Rookery Lane. To the north and west and beyond the public footpath along the eastern

boundary are large expanses of arable fields and hedged paddocks, and the strategic housing allocations identified in the development plan. The site is largely open, with some boundary vegetation, and has a gently undulating profile.

12. From Oak Road and the adjacent public footpath, the site forms part of a broad swathe of undeveloped land that defines the northern edge of Tiptree. It offers a visual break in built form and contributes to the rural setting of the settlement when viewed from the surrounding countryside and properties. The openness of the site also contributes to the setting of the Bonnie Blue PH, which, while not statutorily designated, is a non-designated heritage asset.
13. The site also lies within the Messing Woodland Farmland character area, as identified in the Council's evidence. This is a gently rolling, predominantly rural landscape characterised by a mosaic of arable farmland, hedgerows, scattered trees, and small woodlands. Settlement edges are generally softened by vegetation, and open gaps between built form allow for views across farmland. The appeal site reflects these characteristics by maintaining a largely undeveloped edge, with open views that contribute to the area's rural identity.
14. The indicative layout shows built form extending deep into the site, with estate roads and closely spaced housing, which would alter its open and undeveloped character. This quantum and disposition of built form would urbanise land that currently provides a spacious, rural setting, eroding the perception of separation between the settlement and its rural surroundings.
15. The appellant suggests that the proximity of the site to land allocated for housing to the east and west would create a more urbanised setting into which the appeal site would integrate. While such allocations may be developed in future, they form part of a planned pattern of growth with clearly defined boundaries intended to manage the relationship between settlement and countryside. The appeal site lies outside those boundaries, and its development would project the built form further into open countryside, creating a visually discordant edge that would not reflect the planned transition currently envisaged in the development plan.
16. The northern and eastern boundaries of the site contain thick vegetation, including mature hedgerows and trees, which limit some wider views. However, the development would still be visible from nearby public footpaths, from Oak Road to the south, and from surrounding occupiers' properties, particularly in months when deciduous vegetation offers less screening.
17. While landscaping could be introduced at the reserved matters stage, it would take time to establish and would not replicate the current open qualities or restore the undeveloped backdrop to the Bonnie Blue PH (a non-designated heritage asset).
18. I find the proposal would cause harm to the character and appearance of the area including the rural qualities of the Messing Woodland Farmland landscape character area. It would therefore conflict with Policies SP7 and DM15 of the Local Plan and Policy TIP02 of the Tiptree Neighbourhood Plan insofar as they seek to ensure proposals are well-designed and respond positively to local character and context.

Ecology and Biodiversity

19. A Preliminary Ecological Appraisal report (PEA, August 2022) accompanied the application. It provides an initial assessment of habitats and species potential but notes the likelihood of certain protected species being present, particularly Great Crested Newts and reptiles. It recommends undertaking targeted surveys to confirm their presence or absence. The Council's ecological adviser considers that these surveys are necessary prior to determination, as the results could influence the scheme's layout, design or mitigation requirements. Government standing advice supports this approach where suitable habitats or ponds occur nearby.
20. The appellant argues that any further ecological work could be secured through conditions at reserved matters stage, and points to the site's location within a settlement and its proximity to other development. However, given the identified potential for protected species, the absence of detailed surveys leaves uncertainty as to whether the proposal could comply with statutory duties and relevant policy requirements for biodiversity protection.
21. What's more, the proposal is not supported by an arboricultural impact assessment, a Tree Canopy Cover Assessment or a wintering bird survey which would enable a complete understanding of the existing ecology of the site.
22. The mandatory 10% biodiversity net gain (BNG) requirement introduced nationally from February 2024 does not apply to this scheme, as the application was submitted in December 2022. Notwithstanding this, Local Plan Policy ENV1 was already in place at the time of submission and requires development to deliver measurable net gains for biodiversity. In this case no BNG metric, baseline assessment, or delivery mechanism has been provided. Without this, there is no certainty that the required net gain could be achieved or accommodated within the scheme once the necessary mitigation for protected species is taken into account.
23. In the absence of adequate survey information, secured mitigation, and a mechanism for delivering biodiversity net gain, I find the proposal would harm ecology and biodiversity. It would conflict with Policies ENV1, DM1, CC1 and SS14 of the Local Plan, as well as Policy TIP12 of the Tiptree Neighbourhood Plan insofar as they seek to ensure development proposals safeguard biodiversity, are supported by appropriate ecological surveys, and minimise their impact on the environment. It would also not adhere to the biodiversity objectives of the National Planning Policy Framework (NPPF) set out in section 15, and the statutory requirement to have regard to the conservation of biodiversity.

Planning Obligations

24. The Council's decision notice identifies the absence of a completed legal agreement to secure affordable housing, infrastructure contributions, and other obligations. These include funding towards local services and facilities to mitigate the impact of the development, as well as provision for archaeology.
25. The appellant indicates a willingness to enter into such an agreement and argues that, given the outline form of the application, the details of planning obligations could reasonably be secured at a later stage. Whilst the specific scope and quantum of contributions may be refined once reserved matters are submitted, the principle and mechanism for securing them is expected to be demonstrated at the outline stage. In the absence of a draft obligation, or a clear means of securing

affordable housing and infrastructure mitigation, there is no certainty that these requirements would be delivered.

26. As a result, the proposal would not make adequate provision for planning obligations. It would conflict with the requirements of Policies SP6, SG7, PP1 and DM8 of the Local Plan, and Policy TIP10 of the Tiptree Neighbourhood Plan insofar as they seek to ensure proposals mitigate impacts on existing infrastructure, provide appropriate contributions and levels of affordable housing.

Contamination

27. The site currently operates as pasture with equestrian characteristics and lies adjacent to a public house and car park. On the basis of its historic and present uses, there is a reasonable prospect of localised contamination in near-surface soils (including residues from agricultural chemicals and hydrocarbons), together with potential hotspots along the boundary with the adjoining hardstanding.
28. A proportionate Phase 1 preliminary risk assessment has not been submitted and, if indicated by that assessment, a targeted intrusive investigation would be required to confirm the site's suitability for residential use with gardens, including any necessary remediation and verification. In the absence of such information, I cannot be satisfied that the development would be appropriate for its location or that risks to future occupants, construction workers, controlled waters or building materials would be acceptably managed.
29. While such matters can sometimes be addressed by condition, in this case the absence of an initial assessment leaves uncertainty over whether the site is appropriate for residential development.
30. Accordingly, it has not been demonstrated that the site is suitable for residential development in respect to contamination. The proposal therefore conflicts with Policy ENV5 of the Local Plan which seeks to ensure that proposals do not result in an unacceptable risk to public health or safety due to the potential of land pollution.

Flood Risk and Drainage

31. The site lies within Flood Zone 1. However, paragraph 181 of the NPPF states that proposals should be supported by a site-specific Flood Risk Assessment (FRA) for all proposals for major development, including housing schemes on sites of 1 hectare or more, to consider all potential sources of flooding and to demonstrate that the development would be safe for its lifetime without increasing flood risk elsewhere. Local Plan Policies DM23 and DM24 also require new residential schemes to incorporate Sustainable Drainage Systems (SuDS) as an integral part of the development, and to provide sufficient information at the application stage to show that appropriate measures can be delivered.
32. The appellant has not provided an FRA or details of a sustainable drainage strategy. Whilst the precise design of SuDS can appropriately be refined and secured at the reserved matters stage, it is essential that the principle of safe and sustainable drainage is demonstrated before outline permission is granted. Without a preliminary FRA or outline drainage assessment, there is no evidence that the site could accommodate development of the scale proposed without increasing flood risk on or off site.

33. For these reasons, the proposal does not make satisfactory provision for flood risk and drainage. It would therefore conflict with Policies DM23 and DM24 of the Local Plan and the relevant provisions of Section 14 of the NPPF insofar as they seek to ensure that proposals minimise the risk of flooding, are appropriately flood resilient and incorporate sustainable drainage systems.

Other Matters

34. I have had regard to the other permissions and appeal decisions referred to by the appellant. However, only limited information has been provided about these schemes, and I cannot be certain that the circumstances are directly comparable to those of the appeal proposal in terms of policy context, site characteristics, or surrounding context. In any event, each proposal must be determined on its own merits, and my decision is based on the specific evidence before me.
35. The appellant highlights that the site could deliver housing in a short timescale and make a positive contribution to supply, even if the Council can demonstrate a five-year housing land supply. The scheme would provide up to 29 dwellings including affordable homes in a location where future residents would have access to services and public transport. I acknowledge that all additional housing has some benefit. I also note that the application for housing at the adjacent strategic allocation at Elms Farm remains undetermined and that the appellant suggests that delays in its determination could lead to under-delivery of housing in Tiptree. While progress on its determination may affect the timing of delivery, it does not alter the status of the site as an allocation or diminish the importance of directing growth to such planned locations.
36. The evidence before me indicates that the Council's supply position means the Framework's presumption in paragraph 11(d) is not engaged, and the scale of contribution from this scheme would be modest in the overall context.

Planning Balance and Conclusion

37. Set against the benefits of the scheme is the significant cumulative harm arising from the adverse impact on the character and appearance of the area, the conflict with the spatial strategy directing growth to allocated sites within settlement boundaries, harm to ecology and biodiversity, inadequate provision for planning obligations, and insufficient information relating to contamination, flood risk and drainage. With a five-year housing land supply in place, the harm I have identified would significantly and demonstrably outweigh the moderate benefits of the appeal scheme.
38. The appeal site is located within the recognised 'Zone of Influence' for one or more of the European designated sites scoped into the Essex Coast RAMS. I have a duty under the Conservation of Habitats and Species Regulations 2017 to assess any impact the proposed development would have upon the RAMS. However, as I am dismissing the appeal for the reasons given above, I do not need to conduct any further assessment in relation to the RAMS.
39. 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.

40. For the reasons given above the appeal should be dismissed.

Thomas Courtney

INSPECTOR

Richborough