

# Planning Committee

## Thursday, 16 March 2023

**Attendees:** Councillor Lyn Barton, Councillor Nigel Chapman, Councillor Helen Chuah, Councillor Michael Lilley, Councillor Jackie Maclean, Councillor Sam McCarthy, Councillor Chris Pearson, Councillor Leigh Tate

**Apologies:** Councillor Roger Mannion, Councillor Martyn Warnes

**Substitutes:** Councillor Robert Davidson (for Councillor Roger Mannion), Councillor Sam McLean (for Councillor Martyn Warnes)

### No. Introduction

The start of the meeting was delayed by 15 minutes to ensure that all Members of the public in attendance and in the overflow room could view the meeting.

### 976 Site Visits

A site visit was conducted on the 16 March 2023 which was attended by Councillors Lilley, Barton, Chapman, Chuah, Davidson, McCarthy, McLean, and MacLean. Members of the Committee visited the following sites:  
222151 Land to the North West of, Hardy's Green, Birch, Colchester.

### 977 Minutes of Previous Meeting

No minutes were presented to the Committee for confirmation.

### 978 222151 Land to the north west of, Hardy's Green, Birch, Colchester

**Councillors Davidson and MacLean declared that their professions were as farmers but they did not have any interest in the land or proposal before the Committee.**

The Committee considered an application for the construction and operation of a solar photovoltaic (PV) farm and associated infrastructure, including batteries, inverters, security cameras, fencing, access tracks and landscaping and cable run. The application was referred to the Planning Committee as the scheme was an EIA development.

The Committee had before it a report and amendment sheet in which all information was set out.

James Ryan, Planning Manager presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown the layout of the site with the proposed cable run from the site as well as the elevations of the proposal showing the substations, fencing, and asked members to note the security

measures on site which included CCTV. The presentation showed indicative plans of the possible types of solar panels that would be used on site which would be up to 3 metres tall and the approved plan of the development zone. Members were asked to note on the plan that three of the fields on the south of the site had been removed from the proposal which had been facilitated by the applicant and not at the request of officers; a condition confirming this was included within the recommendation. The Planning Manager detailed that the access to the site would be via the existing farm access and showed the Committee Computer Generated Images of what the panels may look like after 10 years where the screening had been planted and how the panels would be obscured by the trees and hedgerows. It was pointed out that they would not be completely obscured by the screening or hedging and that some panels would still be visible. It was noted that following consultation further archaeological works would be undertaken through condition.

The Planning Manager outlined that a further response had been received from Essex County Fire and Rescue Services who set out that they had assessed the proposal and that they did not object to the proposal but asked that, as per condition 20 in the recommendation, a fire safety risk management plan had to be in place and that the development of the battery storage could not go ahead until this had been signed off by Essex County Fire and Rescue and the Health and Safety Executive. It was outlined that this requirement would ensure that safety measures could be put in place and that the condition would not be discharged unless both parties were satisfied that.

The Planning Manager detailed that a late submission had been received from the Campaign Against Rural Exploitation (CARE) and outlined the following points that were raised within the document:

- The energy creation on the site and whether the site would need to be replaced within 20 years.
- That the proposal was not sustainable development and that building on best and most versatile land should be discouraged and that they would like to see stricter regulations and would like to see further rooftop solar panels.
- That there had been no objection from Essex County Fire and Rescue and that the Rochdale envelope was an example of the worst case scenario.
- That they were not satisfied with the response from the Health and Safety Executive and noted that the Battery Storage Facility would be a hazard on the site.
- That if there was a fire on the site it would cause a toxic cloud of smoke causing risk to residents.
- That they did not agree with the designation of the land being grade 3A and 3B and that 40 years could not be considered as a temporary permission.
- That the potential for energy creation would be less than stated and that offshore wind farms created more energy and would be more productive than use on agricultural land.
- The use of deer fencing rather than palisade fencing with the proposed height being 2m.
- That the risks associated with possible toxic smoke from a fire had not been

finalised.

- That both this application and a previously approved scheme in Layer De La Haye were being used to circumvent the planning system and questioned how responsible recycling of the site could be secured.
- That lithium batteries are now used in a wider range of products and that when they caught fire they couldn't be put out and that if there was a fire a 5-mile cordon would need to be instituted and it would be impossible to protect citizens or the animals at the zoo.

Graham Barney (Chair of Copford and Easthorpe Parish Council and on behalf of Birch Parish Council) addressed the Committee pursuant to provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that all Parishes had submitted detailed objections to the proposal and asked Members to consider Greg Barker's (then Minister for Energy and Climate Change) 2013 statement that detailed how solar energy should be thoughtful, sensitive to public opinion, and mindful of wider impacts and not be at any cost of the local communities. It was noted that renewable energy targets should not be at the cost of productive farmland and that the Committee should be aware of wider impacts of the proposal and that there would be a loss of farmland and as the recent food shortages had shown it was needed for such a purpose. The speaker elaborated that the technology in the panels would become obsolete and would not be able to produce the amount of energy as cited in the report and would at times only produce 10-15% of capacity with an expected 1% decline in production every year. The Committee heard that the proposal would cause serious harm to the heritage assets in the area and that if there was a fire then there would be a significant risk of toxic fumes to residents and to the firefighters who would be tackling the blaze. The speaker concluded by detailing that in the event of this it would cause an environmental catastrophe and asked that the application be rejected.

Ed Perrin addressed the Committee pursuant to provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the proposal would provide enough power for 12,850 Colchester Homes per year saving over 7000 tonnes of Carbon Dioxide and would have a sizeable contribution to the Council's net zero target whilst noting that there were no technical objections to the proposal. The speaker detailed that there had been significant changes to the project with the removal of fields making the project considerably smaller and the inclusion of a scheme that created significant community benefits. It was noted that there would be a biodiversity net gain on site from the planting of hedgerows and understood that there was concern in the local area regarding the proposal but detailed that it would provide electricity for 16% of homes in the area and that without farming the soil would be able to recover. The speaker concluded by confirming that the land would be returned to its current use once the temporary permission lapsed and that there was benefit to the proposal which outweighed the temporary loss of land and asked that the application be approved.

The Democratic Services Officer read out a statement from Councillor Kevin Bentley as follows who was unable to attend the meeting:

*"Dear Chair and Members*

*Firstly, my apologies that I cannot be with you this evening due to other official commitments in Essex.*

*However, along with my Ward colleague, Cllr Andrew Ellis, I would like to speak about the application before you for a Solar Plant and to register my objection.*

*I am not against solar energy as it forms part of our sustainable plans to reduce carbon emissions and clearly contributes to our endeavours as a nation to reduce the high risks of climate change that face us and our future families.*

*In fact in our Ward, we have other sites that function well. However, it is about the siting of this particular application that causes concern.*

*I would stress that the company involved has been very good and engaged with us as Councillors and we have already expressed our concern about the original plan, and we acknowledge that changes have been made.*

*It does not however, go far enough and I think the risks very much outweigh the benefits. One area of concern is the location and the roads that lead to the site. This is a very rural area with very rural roads and cars in areas of the road network are not able to pass each other, this is a common feature in the countryside. Therefore, to subject these local roads to much increased traffic and inevitable and costly damage to surfaces, ironworks and soft verges from large vehicles and the people who live nearby to heavy HGV traffic during construction and ongoing maintenance is unacceptable.*

*Furthermore, in this case and in my opinion it is an unacceptable risk to the natural environment and pollution caused would counteract any benefits gained from solar energy produced.*

*Another concern is around the sheer scale of the lithium battery storage system, and I am concerned that this could prove to be a fire risk. I know residents have consulted with the Essex Fire Chief on this matter, but I would urge Members to investigate this point thoroughly.*

*This site is currently used as arable farmland for growing of food, the majority of which is classified as Best and Most Versatile land in planning terms. I believe it is important that in a post Brexit world and the greater need for home grown cereals and vegetables we should be preserving such land for this use and not turning it over to what amounts to industrial use, albeit for sustainable energy.*

*I don't object as the local Member lightly and am a great supporter of renewal energy, as I believe many of my constituents and those who are objecting to this application are as well. My objection is based purely on location, size, traffic complications which could lead in my opinion to higher pollution, potential of fire risk with the size of the BESS and very importantly the loss the prime agricultural land.*

*I am grateful for whoever has communicated this message verbally to you on my behalf and I do hope you will take into consideration my comments and views."*

Councillor Andrew Ellis addressed the Committee as Ward Member for Marks Tey and Layer and outlined that the proposals such as this should be on brownfield land

and not best and most versatile land and noted that policy ENV1 had engaged and was significant to the proposal that was before the Committee. Members of the Committee heard that there would be some benefits from the proposed planting on the site which would not entirely enclose the area and that the proposal would be in operation for 40 years and would be industrialising the countryside. The Ward Member continued by raising concern that the Council should not ride roughshod over constituent's views to remove fossil fuels and that the proposal did not contribute to the Colchester network. The Committee heard that solar energy was not a magic bullet to the energy crisis and the landowner could not be vilified for diversifying their farm and that it would be up to the Committee to decide whether this was the correct use for the land. The speaker concluded by asking the Committee to preserve the local landscape.

At the request of the Chair the Area Planning Manager responded to the points that had been raised by the speakers. The Committee heard that precise design of the panels had yet to be decided and the details were not before the Committee and that none of the equipment that would be used on site would be approved until it had been agreed with the Fire Service and the Health and Safety Executive. It was noted that if the condition was not discharged for the Battery ESS (BESS) then the proposal would not be able to store energy on site and noted that there had been no technical objections to the proposal so it would be unreasonable to refuse the application on the basis of safety as there was no evidence that it would be so. The Area Planning Manager referenced that a recent Planning Appeal elsewhere had been heard at a Public Enquiry regarding solar panels and storage and had confirmed that where safety concerns had been presented without evidence these could not be neutrally weighted and could not be considered to weigh against a proposal.

The Planning Manager accepted that 40 years was a long time for a temporary permission but reminded the Committee that as detailed in the description of the development that the proposal before them would not be permanent. Members heard that the proposal would be removed from the site in its entirety once the permission elapsed or, as detailed in condition 2, if the site became defunct and was not producing power. It was noted that the proposal would be part of the UK's energy mix which included wind, wave, tidal and nuclear to remove reliance on hydrocarbons and some of the efficiency of the proposal would be from the link into the national grid. It was noted that the impact on the environment had been assessed and had concluded that the impacts of the proposal could be successfully mitigated including an increase in canopy cover and noted that the three fields to the south which had been removed from development area would not benefit from biodiversity net gain. It was confirmed that independent Ecologists had been commissioned for the project and there had been a holding objection on this issue when the application was being assessed but this had been resolved through the conditions detailed in the report. The Committee heard that the Battery ESS (BESS) had been placed near the woodlands so that they could screen the substation area and confirmed that no objection had been received from the Forestry Commission or from the Council's Arboricultural Officer. The Planning Manager confirmed that the use of the land was part of the Committee's deliberations and that the site was made up of type 3a and 3b land and that the quality of the land was a planning consideration when deciding on the temporary permission

for the site.

Members heard that there would be a limited increase in traffic in the area with the construction of the site and confirmed the HGV movements would not take place during school pick and drop off times and that Essex County Council's Highways Department had not objected. To ensure complete transparency it was confirmed that the scheme was not from the City Council but emphasised that it would contribute to the zero carbon future of the City. It was noted that Brownfield development proposals were supported and noted that the evidence before the Committee showed that the proposal could be successfully mitigated against in terms of ecology and biodiversity bearing in mind that the proposal was temporary.

The Development Manager outlined that the impact on the Heritage Assets in the area had been outlined in the report on page 63 and that three of the main Assets had been taken out of concern through the removal of the three southern fields. It was detailed that the remaining assets would be indirectly affected by the proposal and the screening provided by the application would not change the significance of the assets as they were examples of pre-industrial architecture and did not have a direct link such as an intentionally designed setting but incidentally formed part of the surrounding agricultural setting.

Members debated the proposal and some Committee Members initially raised concern about the comments from the Development Manager regarding Heritage issues and disagreed with the amount of harm that could be associated with the Listed Assets. Members raised questions about how many solar panels were on Council owned buildings and commented that the road network around the site would never be satisfactory. Questions were raised regarding whether the proposal would be bunded and what would happen with the water run off to the site and the reservoir at Layer if there were any chemical leaks that could be caused by accidents such as a fire.

The Planning Manager outlined that they did not have any data to hand regarding Council owned Solar Panels and detailed that the Council did not have a policy to enforce solar panels on buildings but it was highly encouraged. It was noted that a previously approved Layer de la Haye solar farm was not yet operating as they were currently undertaking archaeological digs as required in their approval. With regards to increased traffic the Committee heard that the site would be accessed and maintained via an existing farm access and that if any damage was caused to verges then this would be repaired. It was confirmed that the BESS would be bunded and that any water from the site would go into the designated water courses and that any chemicals in the water would be dealt with under the fire management plan.

With the permission of the Chair the Development Manager confirmed that the Turnstone development did have solar PV panels and a hybrid heating solution on the adjacent mixed use site to the east of the VUR. The Committee heard that it would be difficult to sustain a refusal on highways grounds without an objection from Essex County Council's Highways Authority and asked Members to bear in mind that the

roads were currently used by farm traffic including combine harvesters which would be bigger than HGV's. Members heard that 3 listed heritage assets would be affected in a minor way by the proposal and had been assessed at the lower end of less than substantial harm. A map was shown to the Committee of where the listed heritage assets were and where they were in relation to the proposed application.

Members debated whether the loss of the farmland was a substantial impact considering that the permission was temporary, and some Members detailed that they did not see beauty on site and that the proposal would serve a functional purpose for the farmer. A proposal was made and seconded that the application be approved as detailed in the officer recommendation.

The Area Manager confirmed that the proposal was not in an Area of Outstanding National Beauty (AONB) and confirmed that there would be a soil management plan on the site which currently produced cereals, vegetables, and green energy crops for biofuel.

Members continued to debate the application on the grading of the land and its productivity and referenced the current data on DEFRA's website which had been evidenced in the 1960s and it was noted that this estate was only one of five irrigated farms in the Colchester Area. Members discussed the use of the land and how there were many sites that would be better suited to the proposal with some Committee Members raising concern about forcing wild animals to go around the site. A question was raised as to whether the proposal was classed as a Nationally Significant Infrastructure Project (NSIP), what the proposed benefits would be to the local community with additional concerns raised over what could happen if there was a fire and the effect that the toxic smoke could have downwind of the proposal and in the immediate area.

A short break was taken between 20:00 until 20:15.

Following the break, the Area Manager showed the DEFRA map as referenced to prior to the break with Members debating the quality of the land between grade 2 and grade 3. Members were asked to note that despite the map DEFRA had not objected to the proposal. Debate continued with Members of the Committee discussing the balance of impacting rural communities and the Climate Emergency and would provide power to over 12,000 homes. Councillors also questioned what would happen if the Committee refused the application.

At the request of the Chair the Area Manager detailed that the energy created from the site would be fed straight into the National Grid and would be used by households in the area and would reduce the need to import energy. Additionally, the Area Manager confirmed that the National Farmers Union supported the application. The Development Manager detailed that the Council's exposure to an appeal would be

high and the Committee would need to identify reasons why the application should be refused and why the harms outweigh the public benefits of the proposal bearing in mind that there had been no technical objections to the proposal. It was noted that the landscape had changed from generation to generation when reviewing the setting of designated Heritage Assets.

Members resumed their debate on issues including the NPPF, the sustainability of the site and taking into account the appeal decision regarding the safety of site such as this. It was noted by Members that the list of conditions was extensive and the letter of support received from the National Farmers Union (NFU).

The Area Manager confirmed that threshold for NSIP's depended on the installed capacity Schemes for under 50 Mega-Watts (MW) of power were determined by the lpa and those that produced over that amount were determined by PINS under the NSIP process. It was and noted that the scheme was below 50 MW. It was noted that this scheme and a previously approved one in Layer de la Haye were completely separate and noted that there would be a £112,000 sum that would be split between the Parish Councils in the area for a community benefit and noted that the water course contamination would on the list that was part of the management safety plan.

The debate continued between Members where they detailed that the current state of the existing landscape and questioned the accuracy of the drawings that had been shown to the Committee. Members discussed the previous Appeal on a separate solar farm elsewhere and whether it was relevant to the application before Members with some of the Committee detailing that they did not consider the proposal as a temporary structure with some Members also expressing concern that they did not have enough information to determine the application.

At the request of the Chair the Area Manager detailed that the Appeal decision as mentioned was comparable to the site before the Committee bearing in mind the relevant factors and it was cited that the fire safety could be dealt with via condition and that it should be given neutral weight. Members heard that the Council's Planning Enforcement Team would be able to seek evidence if the site was not providing power and that the Biodiversity Net Gain plan would be the maximum that could be achieved on the site and that Officers considered that they had enough information and submitted evidence to approve the application in its current form.

Debate continued with Members thanking all those who had contributed to the meeting with Members empathising with the objections that had been made on the proposal. Some Members outlined that there needed to be a balance on energy production with some being on greenfield sites as well as brownfield sites.

In response to questions raised Members heard that condition 13 set out the aftercare and maintenance of the site through the landscaping condition and its subsequent



monitoring, that the land beneath could not be considered as developed under the temporary use and would not be considered as a sustainable location for housing or industrial use.

The debate concluded with Members considering the need for alternative energy production with Members asking that solar panels should be put on every building but it was noted that this was beyond the remit of the proposal.

RESOLVED (By SEVEN Votes FOR and THREE Votes AGAINST) that the application be approved subject to the conditions and informatives set out in the report.