

# Planning Committee

Thursday, 13 July 2017

**Attendees:** Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Philip Oxford, Councillor Rosalind Scott

**Substitutes:** Councillor John Elliott (for Councillor Brian Jarvis)

**Also Present:**

## 488 Site Visits

Councillors Barton, Chuah, Elliott, Hazell, Higgins, Liddy, Loveland and J. Maclean attended the site visits.

## 489 Minutes

There were no minutes for confirmation at the meeting.

## 490 160825 Colchester Northern Gateway, Land at Cuckoo Farm West, off United Way and Via Urbis Romanae, Colchester

**Councillor J. Maclean (by reason of her business acquaintance with the applicant) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered an application for the erection of use class A3/A5 restaurant/hot food takeaway units (in the alternative), erection of use class C1 hotel, erection of use class D2 multiplex cinema, erection of use class D2 leisure units, erection of a use class A3/D2 restaurant/leisure uses (in the alternative), provision of a landscaped piazza that shall include associated landscaped areas, erection of an ancillary multi-storey car park, provision of separate drop-off/parking areas, the provision of cycle/pedestrian link to Tower Lane and associated works including the erection of substations and associated infrastructure apparatus at Colchester Northern Gateway, Land at Cuckoo Farm West, off United Way and Via Urbis Romanae, Colchester. The application had been referred to the Committee because it was a major, full planning application, elements of which were a departure from the Adopted Local Plan, on an area of land that was currently owned by Colchester Borough Council, that had received objections and which was recommended for permission, furthermore, in the event that the officer recommendation was agreed, it would also be necessary to secure a Section

106 Agreement to mitigate impacts of the development. The Committee had before it a report and amendment sheet in which all information was set out. The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Simon Cairns, Major Developments and Planning Projects Manager, presented the report and together with Paul Wilkinson, Transport Manager and Martin Mason, Essex County Council's Strategic Development Engineer, assisted the Committee in its deliberations. The Major Developments and Planning Projects Manager explained that, under the Town and Country Planning (Consultation) (England) Direction 2009, as the application was partly a departure from the Adopted Local Plan, if the recommendation of approval was accepted by the Committee, it would be necessary to refer the application to the Secretary of State in order that a decision could be made with regard to whether the application would be called in for determination. He also reminded the Committee members that they must consider the application entirely on its planning merits, affording no weight to any issues relating to the ownership of the site by the Council and any financial benefits accruing to the Council as well as the outline / reserved matters planning permission previously granted for a similar application on the site which was not held to be a material consideration in this instance. He further advised the members of the Committee, in their deliberation on the application, to substitute the wording of the paragraphs set out in the amendment sheet for those within the report published within the agenda for the meeting and to take these into consideration in the Committee's determination of the application. He confirmed that planning officers had drawn their conclusions in accordance with the provisions of section 38(6) of the Planning and Compulsory Purchase Act 2004 and had not relied on paragraph 14 of the National Planning Policy Framework (NPPF) but had given full consideration to the need for flexibility as set out at paragraph 24 of the NPPF. Accordingly planning officers had concluded that the proposals satisfied the Sequential Test for reasons which were detailed in the report and the amendment sheet.

Jayne Gee addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She considered there were considerable flaws in the advice given to the Committee members by the planning officers. These had been highlighted in correspondence from Barton Willmore and she was further of the view that the planning officers' advice was unlawful and was likely to be the subject of judicial review. She considered the officers had been inconsistent in their dealings with this application compared to the dealings in relation to the application at Tollgate Village and the subsequent public inquiry, in particular in relation to the assessments of impact of the proposed multiplex cinema at each location. She sought an explanation for the inconsistent approach and considered the application should be refused.

Chris Goldsmith, on behalf of Turnstone Estates, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He

referred to the exciting vision associated with the Northern Gateway development which would deliver a major leisure destination to the Colchester area. He referred to commitments to the development secured with Cineworld for an Imax scheme, Paradise Island, Travelodge for the hotel as well as an eclectic mix of restaurants. He considered the application was very different to that proposed for Tollgate Village and was of the view that Northern Gateway would be a catalyst for a wider vision for the area, including major transport improvements and an economic boost.

Councillor Graham attended and with the consent of the Chairman addressed the Committee. He explained that he was representing the people of Mile End and wished to encourage support for the proposal. He was of the view that it would be fantastic for Colchester as a whole, as well as for Mile End and that it was not something which was available anywhere nearby. He asked the Committee to endorse the application.

The Major Developments and Planning Projects Manager confirmed that the issues raised by Barton Willmore had been given important consideration and the evidence base had been completely revised as a result. The matters raised had revolved largely around the Sequential Test and a key piece of case law which had been referred to the council's consultants, Lichfields, for advice. Lichfields had provided expert advice that had been incorporated into the committee report and confirmed that the Council's conclusions were sound. He did not consider there had been any inconsistency in the Council's consideration of the Tollgate Village proposals, in that these were for a retail development with a leisure element, involving very significant expansion and the scheme was seen to be in conflict with both national and local planning policies. He was conscious of the need for rigour and transparency in the Council's deliberations. In terms of the impact of the Northern Gateway, this had been scrutinised at length and it had been concluded that there would be an adverse impact but that it would be at an acceptable level, in part, due to it being a leisure-led scheme. He also confirmed that Lichfields had advised that they had found no evidence to support the contention that the Northern Gateway development would be likely to lead to the closure of the Odeon Cinema in the town centre.

In discussion, members of the Committee generally welcomed the application as an exciting leisure proposal for Colchester as a whole and considered that the scheme would work well with little detrimental effect on the town centre. Clarification was sought on total parking provision; leisure retail sales which would be permitted; access and parking arrangements for take-away sales; what measure was applied in relation to an 'acceptable' level of impact on the town centre cinema; connectivity for cyclists and pedestrians from the neighbouring David Lloyd site through the current site, northwards and beyond; potential leisure uses of the proposed lake; provision of electric charging points for cars and measures to protect the designation of disabled parking bays. Councillors were particularly supportive of the installation of solar panels to the roof structures of the hotel and cinema in order to fully exploit the development's sustainable energy credentials.

Some Committee members welcomed the opportunity to provide a pedestrian crossing on United Way which also permitted cyclists, such as a Tiger crossing, but were concerned about the proposal for a shared cycle and pedestrian routes through the site. One member of the Committee acknowledged the need to consider the current application on its merits and welcomed its calibre but expressed regret regarding the way the Tollgate Village application had been dealt with.

The Major Developments and Planning Projects Manager explained that the sale of ancillary elements of a small scale nature would be permitted on the site but the application did not include leisure retail sales specifically which would need to be subject to a subsequent application, if required in the future. He explained that Lichfields had concluded that the Odeon cinema in the town centre was currently trading very healthily, above the current national average and that there was no evidence that the current development would lead to the Odeon's closure. He confirmed that there was a shared footway / cycleway link to the south of United Way to Tower Lane, the current application included a proposal for a crossing at United Way, the details of which were subject to agreement with the applicant, and that connectivity to the north and beyond would be secured as developments came forward in the future. He confirmed that the Tollgate Village application had been the subject of a public inquiry, the outcome of which was still awaited. He explained that, in relation to the suggestion for solar panels, it would be possible to add a clause to the proposed BREEAM (Building Research Establishment Environmental Assessment Method) condition seeking the submission of a scheme of renewable energy generation. He further explained that it was appropriate to seek a reduced level of car parking and to encourage alternative means of transport given the need to encourage sustainable transport to serve the site. In addition, the Highway Authority had confirmed that there was no reason to indicate there would be an adverse effect on the strategic highway network or on highway safety. He was therefore of the view that the number of car parking spaces proposed was acceptable and would be adequate to accommodate the level of takeaway sales proposed. He confirmed that the formation of the water features on site would be the subject of detailed consideration with the applicant, however any proposed leisure activities associated with them were not matters for the planning authority. He further confirmed that the proposed conditions included provision for electric car charging points whilst the protection of disabled parking bays for this purpose would be a matter for the car parking management arrangements.

The Transport Policy Manager explained that the cycleway / footway proposals within the current application were similar to many in the town, in that they provided for a three metre wide unsegregated shared use route which was in accordance with the Council's Cycling Supplementary planning Guidance as well as national guidance. He explained that unsegregated routes required greater width and, evidence suggested that they tended to lead to cycling at increased speeds. He further explained that the development provided 114 cycle parking spaces, the location of which would be the subject of

discussions with the applicant with a view to securing provision at the perimeter of the development in order to discourage use of cycles through the site.

The Strategic Development Engineer confirmed that the Highway Authority was content with the proposed parking facilities for the site, that there would be no adverse impact on nearby on-street parking and, in any event, United Way was already designated as a Clearway which precluded the stopping of vehicles. He also confirmed that an assessment had been made of the capacity of the exit and entry off junction 28 of the A12 which had been reviewed by both Highways England and the Highway Authority, both of which were content that there would be no adverse impact.

RESOLVED (NINE vote FOR and ONE ABSTAINED) that –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet together with an additional condition seeking a scheme of renewable energy to be submitted, agreed and implemented prior to the first occupation of the development, with delegated authority to revise as may be necessary, and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, in the event that the legal agreement is not signed within six months, authority be delegated to the Assistant Director Policy and Corporate to refuse the application, or otherwise to be authorised to complete the agreement to provide for the following:

- A Bus Service Level criteria (or variation that is agreed by Essex County Council and Colchester Borough Council) that achieves -
  - (a) Duration of service: 9:30hrs to 23:30hrs, Sunday – Thursday including Public Bank Holidays and to 00:30hrs Fridays and Saturdays, for clarity, the first buses should arrive at the site no later than 09:30hrs and the last departures should be at or after 23:30hrs or 00:30hrs respectively,
  - (b) Frequency of service at least every 30 minutes throughout the day, 7 days per week,
  - (c) Buses to call at stops within 400m actual walking distance (equivalent to a walk of about 5 minutes) to the centre of the site,
  - (d) Bus service to provide connection with Colchester town centre, Colchester railway station, and residential areas near the site,
  - (e) Ability for integrated bus ticketing to allow for onward travel on other bus services in Colchester,
  - (f) Real time information on bus services to be displayed at prominent locations within Colchester Northern Gateway development site;
- Agreement with regard to target a training and recruitment strategy including a number of job opportunities in leisure and hospitality aimed at jobseekers/returners/college leavers in the Borough;
- Funding to provide three wireless CCTV cameras to cover the site, if the applicant is to provide cameras, agreement would be sought to agree real time monitoring;
- Contribution to ensure litter from the site does not impact upon amenity outside of

the site;

- Inclusion of a 'no poaching' agreement that will prevent relocations of food and beverage uses from the town centre to the application development.

(ii) It be noted that under the under the Town and Country Planning (Consultation) (England) Direction 2009, as the application was partly a departure from the Adopted Local Plan, as a consequence of the approval of the application in (i) above, it is necessary to refer the application to the Secretary of State in order that a decision can be made as to whether the application will be called in for determination.