

# Planning Committee

Thursday, 09 June 2022

<b>Attendees:</b>	Councillor Helen Chuah, Councillor Michael Lilley, Councillor Jackie Maclean, Councillor Roger Mannion, Councillor Sam McCarthy, Councillor Sam McLean, Councillor Martyn Warnes
<b>Apologies:</b>	Councillor Lyn Barton, Councillor Nigel Chapman, Councillor Steph Nissen, Councillor Leigh Tate
<b>Substitutes:</b>	Councillor Paul Smith (for Councillor Lyn Barton), Councillor Patricia Moore (for Councillor Nigel Chapman), Councillor Richard Kirkby-Taylor (for Councillor Steph Nissen), Councillor Barbara Wood (for Councillor Leigh Tate)

## 924 Minutes of Previous Meeting

It was noted that no minutes were submitted for approval at the meeting.

## 925 210965 Land at Broadfields, Wivenhoe

The Committee considered an application for the construction of residential development, access, landscaping, public open space, and associated infrastructure works. The application was referred to the Planning Committee as it was called in by Councillor Mark Cory for the following reason:

The application contravenes numerous Wivenhoe Neighbourhood Plan policies.  
And

Matters relating to the Wivenhoe Neighbourhood Plan site location boundaries, as well as associated issues with traffic and transport impacts; the access road; Elmstead Road impacts including Broad Lane junction; cycle path position; adjacent land ownership must be confirmed as public (Councils) or Fields in Trust; quality of housing and environmental standards; ensuring affordable homes at 30% and a localised priority scheme for Wivenhoe.

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

James Ryan, Area Planning Manager, presented the report and assisted the Committee in its deliberations. A presentation was given outlining the location of the site and the details of the position of the proposed 120 dwellings. The Committee heard how the proposed dwellings were situated at the end of Richard Avenue and north of the power lines on site. The Planning Manager detailed the location of the proposed sports pitches and that these would not be under power lines and that the applicant had submitted plans for dwellings north of the power lines to ensure that the dwellings were of good design meeting space standards and not creating an urban

environment. It was noted by the Planning Manager and the Applicant that this did not conform to the Neighbourhood Plan but that there was not any identified material harm identified by Officers created by the proposed 35 dwellings located to the north of power lines. The Planning Manager concluded that the proposal was weighed in favour of approval in officer's opinion and that the officer's recommendation for approval was set out in the Committee report.

Kevin Read addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in objection to the application. The Committee heard how the speaker was the Chair of Wivenhoe Planning Committee and that the neighbourhood plan agreed that the site required 120 dwellings but it was acknowledged that there were land ownership issues with regard to the southern area of the allocation. The speaker outlined that the proposal did not contain any 1 bed dwellings which contravened the Neighbourhood Plan and that the applicant should go back to the drawing board with regards to the designs of the dwellings as they were not in keeping with the local area. Members heard that there was no access to cycle paths or walkways that were detailed in the Neighbourhood Plan and that if approved the resolution should include further conditions regarding construction traffic and movements. The speaker concluded by summarising that the Neighbourhood Plan was supported by over 3000 votes from local residents and asked that the application be refused.

Samuel Caslin (Applicant) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the site had been purchased in 2020 and the application before Members was the culmination of 2 years of collaborative working and outlined that the Neighbourhood plan was not subject to technical analysis. The Applicant explained that the proposal had been recalibrated from what was included in the Neighbourhood Plan as it was the only way to not create an overdeveloped area. The Applicant elaborated that if the dwellings had been concentrated in the allocation area then the application would not have accorded to the design principles in the Neighbourhood Plan. The speaker concluded by outlining that they had sought legal advice regarding the distribution of dwellings, that the proposal would be providing the sports pitches in the local plan as well as safeguarding the wildlife site to the east of the site, and asked that the application be approved as detailed in the officer recommendation.

With the permission of the Chair, Councillor Andrea Luxford-Vaughan addressed the Committee. The Committee heard that the detailed red plan had not been shared with the Town Council and that the proposal before Members would be building outside the designated boundary in the Neighbourhood Plan and the applicant knew the requirements of the site including the constraints when they bought the land which included the attenuation basin which could be put underground. It was further elaborated that the land to the south of the site was going to be built on by a separate developer. The visiting Councillor concluded that the proposed development did not provide the necessary connectivity across the site and made the design unsustainable.

With the permission of the Chair, Councillor Michelle Burrowes addressed the Committee. The Committee heard that the proposal before the Committee was not compliant with the Adopted Neighbourhood Plan with 25% of the proposed dwellings

being beyond the defined limit. She elaborated that the proposed tenures did not reflect the evidence base for the local need and that the upkeep of the open green spaces would be paid for by future residents. Related to this was the lack of green and blue infrastructure with the site giving prominence to vehicular movements and raised concern that some of the dwellings could not be served via a fire hydrant and would require sprinklers to be installed. The visiting Councillor concluded by outlining that the proposal did not adhere to the Neighbourhood Plan which was being ignored.

With the permission of the Chair, Councillor Mark Cory addressed the Committee. The Committee heard that if the proposal was approved then it would set a dangerous precedent with regards to Neighbourhood Plans and the emerging Colchester Local Plan. The Visiting Councillor elaborated that Colchester Borough Council supported Neighbourhood Plans and that the adopted plan in Wivenhoe had taken hundreds of hours to prepare and showed that 89% of residents supported development in the area. He confirmed that there were outstanding issues with Anglian Water, cycle paths being behind dwellings and that there was no restriction of Permitted Development rights. It was also noted that the sports pitches that were being provided did not have any additional parking or facilities and asked that the natural area should be protected via a covenant. He concluded by reminding the Committee that RAMs contributions were not paid to Colchester Borough Council and outlined that approving the proposal would set a precedent for future neighbourhood plans.

At the request of the Chair the Area Planning Manager responded to the points raised by the Have Your Say speakers and visiting Councillors. The Committee heard that the application was being assessed on its own merits and that officers did not consider that there was demonstrable harm identified by Officers of development being north of the power lines. He outlined that the sports pitches were a long way back from the power lines, that the additional space for the number of dwellings allowed for a more attractive development that would otherwise be cramped, and that there was the possibility of further development to the South. It was noted that the scheme did comply with the required housing mix in the Neighbourhood Plan of 1 and 2 bedroom dwellings, that Anglian Water had removed their objection, and that a management company would service the open spaces except the sports pitches. The Committee heard that the use of underground crates were a last resort for drainage issues, that it would be unreasonable to ask for further infrastructure on site for the sports pitches and that the RAM's contribution would be paid to Essex County Council. The Area Manager concluded by outlining that the sports pitches were in a better position than originally proposed and confirmed that the removal of Permitted Development Rights was included in the Officer recommendation.

The Area Planning Manager responded to further questions from the Committee and responded that: there was no vehicle access to Elmstead Road except for construction purposes and that the Neighbourhood Plan required a single point of access, that the applicant had done an assessment of the site and found that it was not possible to provide a scheme that is workable within the allocation area which is why a non-compliant scheme had been submitted.

The Committee debated the application on the issues including: the design of the proposal including the location of the Sustainable urban Drainage area and the harm to the landscape. The Committee raised significant concern regarding the impact that

that would have on the neighbourhood plan and the precedent it would set in the future.

RESOLVED ( BY EIGHT VOTES FOR and ZERO AGAINST with THREE ABSTENTIONS) That the application was refused as it was contrary to the Wivenhoe Neighbourhood Plan site allocation policy; failure to comply with the settlement boundary causing landscape harm and visual intrusion of housing in views from the highway to the north of the site. Further delegation is given to the Development Manager to finesse the wording as appropriate.

**No. 211788 Land west of 194 and east of 202 Old London Road, Marks Tey**

The Committee considered an application for the development of the site for commercial, business and professional services (Class E,C and G), general industrial (Class B2) and storage and distribution (Class B8) purposes with associated access, parking including provision for lost residents on-street parking and landscaping, including diversion of a public right of way, and off-site highway improvement to the Old London Road and its junction with the A120. The application was referred to the Committee as it was classified as a major, a s.106 agreement is required and objections have been received.

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

Simon Cairns, Development Manager, presented the report and assisted the Committee in its deliberations. A presentation was given outlining the location of the site next to the A12 carriageway and showed photographs Old London Road. The Committee were shown the access to the site, the combination of buildings on the site and how this had changed since the application had previously been before the Committee. It was noted how there were proposed changes to the footways as well as placement of the buildings further away from the existing residential development as well as green wall planting to mask some of the industrial facets of the warehouses where these faced sensitive boundaries. The Committee heard that there was a provision of photovoltaic panels on top of the largest warehouses/business units and that discussions had taken place between Officers and the Parish Council and reported that there was still significant concern regarding the proposed development and the Neighbourhood Plan and Highways improvements. The Planning Manager elaborated that there were no records of accidents or injuries along Old London Road and concluded by stating how the proposal would promote employment and would provide an additional 96 HGV traffic movements every day.

Owen Walker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in objection to the application. The Committee heard how the traffic impact on the local area could be substantial but could be resolved, that Old London Road was a substandard road whereby two HGV's could not pass each other without mounting the pavement. The Committee were asked to note that Old London Road was a designated cycling route, that the Andersons site further

down the road had previously been approved so there would be further traffic movements and that the access and details surrounding the site were crucial in determining the application.

John Bowles, Planning Agent Savills, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support to the application. The Committee heard that since the scheme had been deferred significant work had been undertaken to soften the scheme and to reduce the quantum of development on the site. The Committee heard how National Highways had accepted the proposed access and transport proposals and had included additional off street parking. The speaker concluded by outlining that there were no substantive grounds to warrant a refusal and commented that their client was willing to accept the amended conditions contained within the amendment sheet.

The Planning Manager responded to questions from the Committee on issues including: that the development could not be held hostage to any proposed road works that would take place in the future and that the committee could seek further off street parking if they were minded to approve the application. The Planning Manager continued by outlining that there were extensive conditions covering the hours of operation on the site as well as the impact on residential amenity regarding noise created from the site.

The Committee debated the application on issues including: the Traffic Regulation Order along Old London Road and the implications of proposed highways mitigation measures and their timing with wider A12 improvements, the site's relationship with the Neighbourhood Plan, and that the Committee wanted to see additional photovoltaic panels on the site.

The Chair invited Eric Cooper from National Highways to address the Committee regarding the proposed upgrades to the A12 and its relationship with the proposal before the Committee. The Committee heard that plans for the improvement work were going to be submitted in July and with all going well it could be completed by 2027. The Committee heard that National Highways (formerly Highways England) had reviewed the evidence from the Applicant regarding the proposed mitigations and found that they were acceptable considering the size of the application.

The representative from National Highways responded to questions from the Committee on issues including: that National Highways would be content to remove a Traffic Regulation Order along Old London Road if the data agreed with that conclusion and outlined that residents would be able to comment on that process.

The Committee continued to debate the application on the issues including: that the noise created from the site could not exceed the background level as detailed in condition 26, and whether the applicant would be able to implement the footpath from the site as opposed to the Parish Council.

**RESOLVED (UNANIMOUSLY)** that application 211788 was approved as per the officer recommendation and amendments sheet with additional conditions to cover SuDS (ZCM), BREAM "very good" for office unit 1100 (ZCC/ZCD), Further condition seeking to maximise PV on all roofs plus report to confirm no resultant glint/glare,

revised access conditions to provide for review of proposed arrangements and upgrading of Old London Road prior to commencement, having regard to progress of delivery of planned A12 improvements, to include possible single access to serve whole of application site plus Andersons site. Together with an amended S106 clause if it was possible for the developer to deliver cycleway-footway link to A120 via Parish Council land prior to occupation of units, if not a financial contribution to be provided.

**926**

**220959 Rear of 192-200 Mersea Road, Colchester**

The Committee considered an application for retrospective planning for the construction of a single dwelling, following approval ref: 182342. The application was referred to the Committee as it had been called in by Councillor Dave Harris for the following reason: "The build is too high, the windows are too high and the build is too visible from houses on Holm Oak, a very tall bungalow – not built to original planning design. Looking from patio from Holm Oak the roof line is much too high."

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

John Miles, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given outlining the changes to the building in terms of the built form and the originally agreed plans. The Committee heard that the floor level and external openings of the bungalow would be lowered so that they would be no higher than was originally approved. Further works would be undertaken to increase the height of the fence to the North from 1.8m to 2.0m and photos were shown of the built structure from various angles and positions on and off site to give the committee a range of views. The Senior Planning Officer concluded by outlining that the officer recommendation was approval as detailed in the report.

Malcolm Laquis-Alden addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in objection to the application. The Committee heard that the pictures shown to the Committee did not provide the impact of what the height of the building was and that the proposal did not respond to the local character of the area and would have a materially harmful impact through its overbearing nature. The speaker elaborated that the application could be refused on design grounds alone and has changed the nature of their property which is now being overlooked. The speaker concluded by asking that the council put a covenant on the building to stop the applicant building into the roof or any higher and that permitted development rights for the property be removed.

Andrew Ransome addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support to the application. The Committee heard that the building had been built incorrectly in error and that the applicant was very apologetic for this mistake which had come about through a lack of experience and outlined that the proposal before the Committee would take the design back to the original as far as it could.

With the permission of the Chair, Councillor Dave Harris addressed the Committee.

The Committee heard that the original application on the site had been made in 2018 on a very narrow strip of land and outlined how they had met residents on site and noted that the roof was more akin to a 1.75 storey dwelling and was clear that the building was taller than approved and that it looked more like a village hall than a bungalow. The visiting Councillor elaborated that the existing residents feel overshadowed by the proposal and that there was concern from the local community that the building would be converted into a two storey dwelling. The speaker concluded by asking the Committee to remove the right for building into the roof of the property.

At the request of the Chair the Senior Planning Officer responded to the points raised by the Have Your Say speakers and visiting Councillors. The Committee heard that the height and impact of the dwelling was compliant with the Council's policies, that there was limited visibility from public viewpoints and that the recommendation before the Committee included the removal of Permitted Development rights.

The Committee debated the application on the issues including: the removal of permitted development rights, that the building was on the original area as proposed, the height of the roof, and whether there would be any roof lights proposed. The Senior Planning Officer confirmed that if approved any further alterations including roof lights would require additional planning permission.

The Committee continued to debate the application on the issues including: the structure of the building, whether the building as it was currently built would be approved at Committee if this was the original design, whether the site suffered from drainage issues, and the height of the air bricks.

RESOLVED (By TEN votes FOR and ONE AGAINST) that application 220959 be approved subject to the conditions and informatives in the committee report.

## **927        220994 2 Colchester Bike Kitchen and 3 Portal Precinct**

The Committee considered an application for shopfront signage for unit 3 Colchester Bike park and e-Cargo Bike Library, and unit 2 Colchester Bike Kitchen – to be mounted on existing fascia. The application was referred to the Committee because the applicant was Colchester Borough Council.

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

RESOLVED (UNANIMOUSLY) that application 220994 be approved subject to the conditions and informatives in the committee report.

## **929        Changes to the Planning Scheme of Delegation**

The Lead Officer for Planning, Housing and Economic Growth presented the report to

the Committee outlining that during the pandemic increased delegation was entrusted to officers and group spokespersons from the Committee to allow planning decisions to take place in an efficient and accountable way. The proposal within the report would allow the Committee to focus on the important decisions that come before committee and would remove Permitted Development applications as the Committee could have only very limited influence on these applications and had previously caused frustration with not just the Committee but residents as well. The Lead Officer concluded by outlining the recommendation and confirming that Permitted Development applications would not be available for call in if the Committee approved the recommendation.

The Committee debated the report that was before the Committee noting that it would ease the frustrations of the Planning Committee when Permitted Development applications came before the Committee and enquired whether letters could be sent to residents explaining the limited considerations that could be taken into account with prior approvals.

The Lead Officer for Planning, Housing and Economic Growth confirmed that Letters could be drafted and templates could be drawn up outlining the key information that would be sent to residents and that these could be circulated to the Committee for comments.

The Committee continued to debate the report on the issues including what action could be taken by residents and Councillors regarding Permitted Development applications, however there was concern among some Members that the proposal could away some of the decision-making power of the Committee and could limit public involvement within the planning system. Further to this Members questioned what impact this would have on Permission in principle and the decision-making process. A point was raised whether this could be considered for a trial period of 6 months to understand the impact on the Committee and residents.

RESOLVED (UNANIMOUSLY) That the changes to the scheme of delegation are agreed subject to the following amendments:

- That the changes are agreed for a trial period of six months which will then be reported back to the Committee on the progress of the changes.
- Permission in principle removed from scope and Member notifications on applications to confirm if technically possible whether Permitted Development categories and subject to a delegated decision.
- Templates for each category of PD to be circulated to provide an explanation of the matters within scope of consideration for third parties.