

**PLANNING COMMITTEE**  
**30 SEPTEMBER 2021**

<i>Present: -</i>	Councillors Hazell (Chairman), Chuah, Lilley, Maclean, Mannion and Warnes
<i>Substitutes: -</i>	Councillor McCarthy for Councillor Barton Councillor Moore for Councillor Davidson Councillor G. Oxford for Cllr B. Oxford
<i>Also in attendance:</i>	Councillors Harris*  *Attended remotely

**880. Minutes**

The minutes of the meeting held on 29 July 2021 were confirmed as a correct record.

**Councillor Warnes (in respect of his spouse owning land adjacent to the site) declared a disclosable pecuniary interest in the following item pursuant to the provisions of paragraph 7(5) of the Meetings General Procedure Rules and left the meeting during its consideration and determination.**

**Councillor Hazell and McCarthy (as ward councillors for Shrub End ward) and Cllr G. Oxford (as Chair of the Local Plan Committee) declared a non-pecuniary interest in the following item.**

**881. 202025 Land South of Berechurch Road, Colchester**

The Committee considered an application for the development of 153 dwellings with associated parking, landscaping, open space, drainage and infrastructure and formation of new access, together with alterations to existing access onto Berechurch Hall Road. The application had been referred to the Planning Committee because it was a major application which was a departure from the Adopted Local Plan, although not a departure from the Emerging Local Plan, and a number of objections had been received. The application had been considered at the Planning Committee meeting on 9 September 2021 but had been deferred to enable Essex County Council Highways to attend and advise members on highways issues pertaining to the application.

The Committee had before a report in which all information was set out together with additional information on the Amendment Sheet.

Eleanor Moss, Senior Planning Officer, presented the report to the Committee and together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Mary Stuttle addressed the Committee in opposition to the application pursuant to the provisions of Meetings General Procedure Rule 8(3). The developers had driven out both wildlife and local residents, who had felt compelled to move due to safety issues relating to the site. There was a history of traffic accidents in the area including one this week. The application had been brought back to Committee with no changes to reflect the concerns of residents or Councillors. A toucan crossing was now proposed, rather than a zebra crossing, which would bring noise and increased pollution. A better solution would be to make the temporary access the main entrance to the site. This temporary entrance would be in use for a considerable period of time whilst the site was built and once people were used to it, it would be shut. The proposed entrance would mean that there were three roads and five mews discharging onto Berechurch Hall Road in close proximity. The site traffic alone had made it difficult to exit their property safely. It was not clear where the bus stops would be located and they may cause further difficulties. Only the minimum of hedgerows and trees should be removed and any removed should be replaced by mature species as this would help with pollution.

Paige Harris addressed the Committee in support of the application pursuant to the provisions of Meetings General Procedure Rule 8(3). Before the previous Committee the applicants had ensured that the application was clear of statutory obligations and complaints. The comments made at the previous Committee had been considered and the applicants had ensured that they were covered by the proposals. The main concern had related to Highways and it was noted that ECC Highways were still supportive of the scheme. A cohesive approach had been taken to issues such as design and access with the adjacent scheme. Provision of a central access had been considered essential by all key stakeholders and the temporary access on the adjacent site was required to close and revert to a footway. Care was taken to retain as much boundary vegetation as possible with the addition of a ribbon of established trees running through the site. The scheme would deliver policy compliant levels of affordable housing. The Highways Authority had required sustainable transport links with the town centre and therefore the application was amended to include a footway along the front of the site which would link with the cycleway on the front of the adjacent site and the toucan crossing. Two new bus stops would also be provided on Berechurch Hall Road. Electric vehicle charging points would also be provided. The application would deliver a biodiversity net gain and the applicant's ecological consultant had determined that the badger setts on the site boundary were unused. A fence would be installed on the eastern boundary to ensure the development would not impact on future badger activity. There were also significant planning obligations providing improvements to local healthcare facilities and open space provision. The site was allocated for residential development in the Emerging Local Plan, and the Inspector had raised no concerns about the allocation. The site was also part of the 5 year housing land supply.

Councillor Harris attended remotely and with the consent of the Chair addressed the Committee. In respect of badger setts, concerns had been expressed that badgers had been interfered with on land that did not belong to the developer, and it was

queried whether the developer needed to be held to account for this. Residents were not averse to development but there was no reason to disrupt wildlife unnecessarily. The Committee had previously indicated that active badger setts needed to be kept open. As County Councillor for the area he supported the comments made by the speaker against the application. The change in the access arrangements was very confusing. Concerns had also been raised about compliance with national safety standards including LTN 1/20. These issues needed to be resolved at this stage and not referred to the Local Highway Panel. A toucan crossing would be an aid to residents of care homes in the area, as well as residents of the new development.

A statement from the Councillor Lyn Barton was read to the Committee expressing disappointment that the application had returned to the Committee quickly without time to address her concerns or those of residents. Berechurch Hall Road was a busy road with a history of accidents. The plans did not go far enough in improving safety as speeding was not addressed and access from local roads remained a major issue. This was a large development which would impact badly on residents. No explanation had been given as to why a mini roundabout at the Maypole Green junction could not be provided. In terms of the badger setts, they were a protected species and a wildlife corridor should be provided to protect their habitat. The trespassing onto adjoining land to block entrances to the setts was appalling and should be investigated.

Martin Mason, Essex Highways, was invited to address the Committee. In terms of highway safety, it was their role to ensure that the impact of a development was mitigated. Therefore they could only ask for improvements which would mitigate a development and could not require a developer to rectify existing problems. The proposed point of access on to Berechurch Hall Road met all existing design standards. Essex Highways had requested only one point of access for this and the adjacent development as they sought to minimise the number of junctions on the networks. This reduced the risk of accidents as junctions were points of conflict in highways terms. In terms of accessibility, the National Planning Policy Framework put an emphasis on sustainable transport and they had requested two new bus stops adjacent to the site, footways, cycleways and a toucan crossing over Berechurch Hall Road which would give safe access to local schools and facilities and onwards into Colchester.

In discussion, members of the Committee sought clarification of a number of Highways issues:-

- The concerns raised about noise and pollution from a toucan crossing;
- The increased traffic generated from the development would make a significant difference to the safety of the road and that therefore the developers should be obliged to provide extra measures such as cycleways to mitigate the development.
- The width of the footway and cycleway;
- Whether there was any possibility of introducing a 20 mph speed limit on this stretch of Berechurch Hall Road;
- The location of the bus stops and the potential impact they would have on traffic flow on Berechurch Hall Road as buses would stop on the carriageway.

Whether residents could safely access the bus stops without walking in the carriageway;

- The parking policy allowed the same number of cars for a four bedroom property as for a two bedroom. This led to the internal estate roads being clogged by parked vehicles.
- Concerns expressed by Colchester Cycling campaign who believed that the pathway was not suitable and was only half the width required for shared use and whether it complied with government guidance LTN 1/20.

In response Martin Mason explained that a toucan crossing did emit a bleeping sound when in use. The package of highway measures proposed would have the effect of calming the traffic environment and have an impact on the speed of traffic. Direct traffic calming measures could not be implemented on the road due to its place in the road hierarchy. The potential speed of roads was assessed against the Speed Management Strategy, which had defined criteria. This specified that speed limits should be appropriate and as far possible self-enforcing. Most traffic complied with the 30mph limit and 20 mph would not be appropriate on this stretch of Berechurch Hall Road. 20 mph was largely used on residential estates. The widths of the improved footway/cycleway would allow shared use on the southside. On the northside it was slightly narrower but still within standard. The precise location of the bus stops had not been decided yet but there was scope to deliver them and Essex Highways would work with the developers on the location. There would need to be a safe footway access to the bus stops. In terms of impact on traffic flow, buses should be given priority and would help manage traffic speed. The buses were unlikely to be extremely busy and therefore the impact on traffic flow would not be too great. Parking was not a Highways matters but the development met the parking standards adopted by Colchester Borough Council.

The comments made by Colchester Cycling Campaign related to Camaludonum Way which would be widened as part of the scheme. In terms of LTN 1/20 this was not mandatory although ECC was encouraging its use. Work was ongoing to update policies to incorporate its requirements but at this stage developers could not be compelled to meet its requirements. In addition Berechurch Hall Road was quite constrained and so there were limits on what could be introduced. ECC Highways were satisfied that the proposals were safe and could be delivered in the space available. In terms of the site itself, traffic speeds would be low as it was likely to be a 20 mph area and so it would be safe for cyclists.

The Senior Planning Officer explained that on respect of the concerns raised about interference with badger setts off the site, this had not been instigated by the Council and had been reported to the police, the police had subsequently closed their investigation. A landscaping condition was proposed and the Committee could add an informative asking the developer to ensure the eastern boundary of the site took account of the need to protect local wildlife. There also a condition on ecological mitigation proposed. The landscaping provision had been reviewed by the Landscaping Officer and the conditions proposed required a 10% gross increase in canopy cover.

Members of the Committee remained concerned about highway safety issues. The Development Manager advised the Committee that they had received clear advice from ECC Highways that the vehicular access to Berechurch Hall Road met their standards, the toucan crossing would provide a safe method of crossing Berechurch Hall Road and safe cycleway and footways were provided. On this basis there were no grounds for refusal of the application on highways issues. The site was a well advanced allocation in the Emerging Local Plan and no issues had arisen since the allocation to impact this.

Some concern was expressed by the Committee at the lack of information about some key aspects such as the location of the bus stops and felt the application should not have returned to Committee until these issues had been addressed. The Development Manager indicated that the details of the bus stops would normally be agreed by ECC Highways based on their technical criteria. The Committee could require that ward councillor views be consulted once the scheme was agreed. However, that would be highly unusual. It was also suggested by a member of the Committee that the application be deferred for a site visit, but it was explained that this was a well-known site and that little could be gained from a site visit.

Karen Syrett, Lead Officer for Housing, Planning and Economic Growth, stressed that this was an allocated site in the Emerging Local Plan that was at an advanced stage. No modifications had been proposed to the site by the Inspector. Therefore, policy supported the application, and this should carry very significant weight. The NPPF required that applications that complied with the Local Plan be approved without delay.

*RESOLVED* (FOUR voted FOR, THREE voted AGAINST and ONE ABSTAINED from voting) that the application be approved subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within 6 months from the date of the Committee meeting in accordance with paragraph.15.1 of the report. In the event that the legal agreement was not signed within 6 months, authority be delegated to the Assistant Director to refuse the application, or otherwise to be authorised to complete the agreement. The permission would also be subject to the conditions and informatives as set out in the report.

**882. 190605 Colchester Mercury Theatre Ltd, Mercury Theatre, Balcerne Passage, Colchester CO1 1PT**

The Committee considered an application to vary or remove conditions 2-22 of planning permission 171964 and for proposed landscaping as well as to regularise works already undertaken for the extension and alteration of the Mercury Theatre. The application was referred to the Committee for transparency and probity reasons as the Mercury Theatre site land was owned by the Council and the Council was heavily involved as the project lead in the “Mercury Rising” project to extend the Mercury Theatre.

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

*RESOLVED* that the application be approved subject to the conditions and informatives as set out in the report.

**883. 212055 2&3 Portal Precinct, Sir Isaacs Walk, Colchester CO1 1JJ**

The Committee considered an application for secure cycle storage. The application was referred to the Committee for transparency and probity reasons as the Council was the applicant.

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

*RESOLVED* that the application be approved subject to the conditions and informatives as set out in the report.