



## Local Plan Committee

Item  
**9**

30 June 2014

Report of	Head of Commercial Services	Author	Karen Syrett ☎ 506477
Title	Horkesley Park Appeal Decision		
Wards affected	Fordham and Stour directly but the whole borough through implications		

**The Local Plan Committee is asked to note the policy implications arising from the Horkesley Park appeal decision.**

### 1. Decision(s) Required

- 1.1 To note the key policy issues arising out of both the Planning Inspector's Report and the Secretary of State's decision letter in respect of the proposed Stour Valley Visitor Centre at Horkesley Park.

### 2. Reasons for Decision(s)

- 2.1 To ensure members are kept up to date with national policy and how it is interpreted at the local level in Colchester.

### 3. Alternative Options

- 3.1 There is no alternative option; the report is for information only.

### 4. Supporting Information

- 4.1 In March 2013 the Council's Planning Committee refused permission for a proposed development known as The Stour Valley Visitor Centre at Horkesley Park. It was proposed on land containing redundant glasshouses and other buildings, previously used for agricultural purposes, three dwellings (known as Hillside, Chantry Lodge and The Chantry) and parkland, woodland and farmland. The application site covered an area of 47.4 hectares (117 acres) in total.
- 4.2 The site does not fall within any designated Settlement Boundary. The nearest settlements to the application site are Great Horkesley (0.8km) to the south; Little Horkesley (0.5 km) to the west and Nayland (within Babergh District) which is 1.5 km to the north. Approximately 75% of the site (to the west and north) is located within the Dedham Vale Area of Outstanding Natural Beauty (AONB).
- 4.3 The applicants appealed the Council's decision and on 4 April 2013 the appeal was recovered for the Secretary of State's determination in pursuance of Section 79 and Paragraph 3 of Schedule 6 to the Town and Country Planning Act 1990 because the appeal involved proposals giving rise to substantial regional or national controversy.
- 4.4 A public inquiry was held in October 2013 and on the 16 April 2014 The Secretary of State (SoS) advised that he agreed with the Inspector's recommendation that the

appeal should be dismissed and planning permission refused. This report is presented for the committee's consideration because the planning Committee did not support the officer recommendation on this application, and the officer recommendation did not accord with the Planning Policy submission. As such this is an opportunity to summarise the planning lessons learnt and to re-state that our policies are regarded as broadly up to date.

#### 4.5 **Policy Considerations**

In deciding the appeal, the Secretary of State had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

4.6 He also had regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special regard be paid to the desirability of preserving listed buildings and their settings and any features of special architectural or historic interest they possess.

4.7 In this case the development plan comprises the Colchester Local Plan, which consists of the Core Strategy 2008 (CS), the Site Allocations Development Plan Document 2010 and the Development Policies Development Plan Document 2010 (DP). The policies considered to be of particular relevance to the appeal were those listed below;

##### Core Strategy (CS) policies

- SD1 (Sustainable Development Locations),
- CE1 (Centres and Employment Classification and Hierarchy),
- ENV1 (Environment),
- TA1 (Accessibility and Changing Travel Behaviour) and
- TA4 (Roads and Traffic);

##### Development Policy (DP) policies

- DP1 (Design and Amenity),
- DP9 (Employment Uses in the Countryside),
- DP10 (Tourism, Leisure and Culture),
- DP14 (Historic Environment Assets),
- DP17 (Accessibility and Access),
- DP19 (Parking Standards) and
- DP22 (Dedham Vale AONB).

4.8 The Inspector and SoS concluded that the Council's Local Plan is not critically out of date, taken overall it is consistent with the NPPF and the weight afforded to the Plan is unaffected.

#### 4.9 **Main Issues**

The main considerations in the appeal were split into three broad headings:

1. whether the site can be considered to be in a sustainable location, with particular regard to accessibility;
2. the impact of the proposal on the character and appearance of its rural surroundings, and in particular on the purpose, landscape character and scenic beauty of the Dedham Vale AONB; and

3. whether there are any other material planning considerations which might support or undermine the proposal when assessed against the adopted planning framework for the area.

4.10 Is the site in an accessible and sustainable location?

The Council's calculation of visitor numbers (150,000 per annum rather than 316,250) and the modes of transport used were considered to be more realistic assessments than that of the appellants. It was concluded that the centre would be car dependent and poorly served by public transport, walking and cycling. This combined with its remote location would lead to an unsustainable pattern of development which would conflict with national and local policies which seek to promote sustainable transport choices and reduce transport emissions (Core Strategy policies SD1, CE1 and TA1 and Development Policy DP17).

- 4.11 No alternative site was identified and the Inspector was not convinced that the appellants had looked for a more suitable site which undermined their claim that there could be no other more accessible and sustainable site for a countryside rural tourism visitor centre. The only justification for the location was land ownership and clearly this was not sufficient evidence.

4.12 The impact of the proposal on the character and appearance of its rural surroundings, and in particular on the purpose, landscape character and scenic beauty of the Dedham Vale AONB

Although it was acknowledged that the proposal would be major development in the countryside, both the SoS and the Inspector disappointingly did not consider it to be major development in the AONB. Certain aspects of the NPPF were not therefore applied but local Development Policy DP22 was relevant.

- 4.13 They further commented that the site is occupied by agricultural buildings and does not fall within the definition of previously developed land, but as the land has been built on the Inspector did not accept that it should be treated as greenfield land.

- 4.14 The replacement of the nursery buildings was seen by them to be desirable and would improve views into and from the AONB. However, the combined impact of the parking enclosure, the change of use of the land, the addition of the Chinese garden and the loss of tranquillity, while not dramatic, would adversely affect the special landscape character and qualities of the AONB itself. The Chinese garden on its own would detract from the special character of the AONB. The proposal would conflict with CS policy ENV1 and Development Policy DP22.

- 4.15 The proposal would have seen the existing structures replaced by a group of buildings which according to the Inspector were 'low-key, high quality..., appropriate to their context, and overall of less site coverage, less built volume and lower height. An exemplary design would represent a significant improvement in terms of the visual quality and character of the area.'

- 4.16 Additional vehicles and pedestrians on local roads and footpaths would to some extent threaten the tranquillity and quiet enjoyment of the AONB.

4.17 Other Material Considerations

Job creation and economic growth were seen as clear benefits despite the Council arguments that the job numbers were unlikely to materialise.

4.18 Viability and deliverability were not considered to be material considerations. Alternative use of the site (if the scheme proved unviable) would require further planning applications which the council would determine on its merits at the time. The arguments about delivery centred on whether the key attractors i.e. the art gallery and Chinese garden, would be delivered and to an appropriate standard to attract visitors in the numbers proposed. Conditions were suggested in the Planning Committee report and taken forward at the appeal that required submission of details prior to development commencing. The Inspector concluded that the use of these conditions would enable the Council to satisfy itself that the attractions would be provided in an acceptable form and therefore objections on viability and deliverability grounds could not be sustained. The use of such conditions was considered to overcome the Council's objections and therefore the ground should not have been sustained at appeal.

4.19 The Church and The Chantry are considered to have distinct group value and their settings are significant heritage assets. The Chinese garden would be entirely out of place and would harm the Chantry, whilst there are insufficient details to say if conversion to an art gallery would be harmful.

#### 4.20 **Conclusions**

The Inspector summed up as follows;

"Overall I conclude that, having in mind the NPPF's definition of sustainable development in its paragraph 7, while job creation and economic growth are powerful factors in favour of the proposal, and would go some way towards offsetting the harm it would cause, on balance the extent of the harm caused by the locational unsustainability of the site, the impact on the AONB and the effect on an important heritage asset together would be such that it would clearly outweigh the benefits of the proposal. It would not therefore represent sustainable development and I do not consider that the suggested conditions could overcome the harm I have identified. "

### 5. **Proposals**

5.1 Members are asked to note the following key messages from the decision;

1. The Council's Local Plan is not critically out of date, taken overall it is consistent with the NPPF and the weight afforded to the Plan is unaffected.
2. The Council was justified in using location and accessibility as reasons for refusal, even though this involved appointing transport consultants because the Highways Authorities did not object to the proposal (they considered the capacity of the road network rather than the sustainability of the proposal)
3. The proposal was considered to be major development but not within the AONB
4. Although the site is not classed as previously developed (brownfield) neither should it be treated as greenfield. A Legal opinion is being sought on this matter and the findings will be reported verbally at committee.
5. Additional vehicles and pedestrians on local roads and footpaths would to some extent threaten the tranquillity and quiet enjoyment of the AONB.
6. Job creation and economic growth are important material considerations
7. Viability and deliverability were not considered to be material considerations.
8. The fear of what might happen to a site if a proposed use fails is not a reason for refusal as the Council would have the opportunity to consider any future proposals.

9. Full details should be required as part of any application and should not be dealt with by way of condition.

## **6. Strategic Plan References**

- 6.1 The Strategic Plan Action Plan includes a commitment to being cleaner and greener; listening and responding and promoting sustainability and reducing congestion.

## **7. Consultation**

- 7.1 Not applicable

## **8. Publicity Considerations**

- 8.1 The press have taken an active interest in the proposed development of this site and no doubt will continue to do so as the new owners decide how to proceed.

## **9. Financial Implications**

- 9.1 The public inquiry was a significant cost for the Council of approximately £100,000.

## **10. Equality, Diversity and Human Rights/Health and Safety and Community Safety Implications**

- 10.1 None identified.

## **11. Risk Management Implications**

- 11.1 Ensuring members are fully briefed on planning decisions and the status of the Local Plan will help reduce the risk of inappropriate development being permitted.

## **12. Disclaimer**

- 12.1 The information in this report was, as far as is known, correct at the date of publication. Colchester Borough Council cannot accept responsibility for any error or omissions.