

# Planning Committee

## Thursday, 20 January 2022

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| <b>Attendees:</b>   | Councillor Helen Chuah, Councillor Robert Davidson, Councillor Pauline Hazell, Councillor Michael Lilley, Councillor Roger Mannion, Councillor Martyn Warnes              |
| <b>Apologies:</b>   | Councillor Lyn Barton, Councillor Jackie Maclean, Councillor Beverley Oxford  |
| <b>Substitutes:</b> | Councillor Sam McCarthy (for Councillor Lyn Barton), Councillor Patricia Moore (for Councillor Jackie Maclean), Councillor Gerard Oxford (for Councillor Beverley Oxford) |

### 892 Minutes of Previous Meeting

It was noted that there were no minutes presented before the Committee for confirmation.

### 893 212810 Man Energy Solutions UK Limited, St Leonards Works, Port Lane, Colchester, CO1 2NX

The Committee considered an application for outline planning permission with all matters reserved save for access for the demolition of all existing buildings and structures and the creation of a residential development with associated open space and infrastructure. The application was referred to the Planning Committee because the application was for major development which has received objections, and the recommendation is for approval subject to a legal agreement.

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

Nadine Calder, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. A presentation was given of the site outlining that all matters except access were reserved and that the parameter plan of the site indicated that 10% of the site would be open space. It was outlined that the proposal was up to four storey high buildings. The Senior Planning Officer showed pictures of the proposed access point and the buildings that would be demolished under the proposal and the surrounding area including the footpaths in the surrounding area. The presentation was concluded by outlining that the site was in the emerging Local Plan and that the officer recommendation was for approval.

Steven Moseley addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in objection of the application. The Committee heard that the proposed development did not include enough cycling provision or

high-quality infrastructure and that they would like to see a coherent scheme for safe cycle access as well as public rights of way improvements.

Alice Routledge addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in support of the application. The Committee heard that the site was currently designated for use as employment but had been allocated in the Council's emerging Local Plan (Policy EC3) to build up to 130 new dwellings and that it had been demonstrated that there had been no issues on the site. The speaker outlined that the proposal would include a smart energy media area and that a contribution would be provided towards a memorial for the previous employment use on site and concluded that there had been no objections from statutory consultees. Councillor Whitehead attended and with the consent of the Chair addressed the Committee. The Committee heard how there was regret that Paxmans was being demolished as it was an important part of the Borough's history but that it was good news that the site was being developed and that some affordable housing would be secured on site. It was outlined that there were concerns regarding the four storey proposals which did not fit into the surrounding area and that the scheme was missing a real opportunity to create an active cycling travel link without a properly dedicated cycle path especially on the south of the site. Concern was raised regarding the width of the roads and whether there would be accessibility issues with parking and that the site should have a 20MPH limit to promote active travel. The speaker concluded by outlining that there was concern over school places in the area and that it could mean residents having to travel to more congested areas of the Borough.

Councillor Scordis attended via zoom and with the consent of the Chair addressed the Committee. The Committee heard that the Councillor supported the development on a brown field site and understood the historical context of the site as a member of their family had worked there. The Committee heard that there was an acceptance there would be housing on the site but there was also significant concern regarding the lack of a dedicated cycle route rather than an unsegregated pathway and that there would be issues with the junction on Port Lane and Hythe Hill as there had been accidents in the past. Concern was raised regarding the details of the S106 Agreement and monies going to the Methodist Church and Leisure World and whether this could be better placed by supporting the local schools. The speaker concluded by outlining their concern over the use of a car club and how this would work on the site.

At the request of the Chair the Principal Planning Officer responded to the comments that has been made by the speakers and visiting Councillors. The Principal Planning Officer outlined that the location of the four-storey development was indicative only on the plan and would be for Members consideration in a reserved matters application if it was brought before the Committee. The Committee heard that the proposed cycling links of an unsegregated pathway had been agreed after consultation with the transport and sustainability officer who had concluded that the development was not urban enough in relation to the Town Centre to require a separate segregated cycle pathway. It was noted that the parking on the site would have to conform to the Council's parking standard and that the monies proposed for primary schooling and early years provision had been determined by Essex County Council. The Senior Planning Officer noted Members comments regarding a possible increase in traffic but asked the Committee to note that the site in its current form had an employment use which would be the fallback position if the application was not approved. The

Principal; Planning Officer concluded by responding that it was considered that the access was acceptable and there was a doubt as to whether 20mph across the site could be secured.

The Committee raised concerns over the footpath to the south of the site as it was used as an area for dealing drugs and if some CCTV could be installed in the vicinity that would be welcomed. The details of the cycle path was raised by the Committee with some members voicing disappointment that there was not a dedicated segregated cycleway in the proposal. Committee Members asked that when a reserved matters application was made the affordable housing was tenure blind and spread out across the site, that Electric Vehicle Charging points be required, asked for further information on any RAM's payment, and the status of the Methodist Church receiving S106 funding.

The Principal Planning Officer responded to the points raised by the Committee outlining that the footpath to the south of the site would be improved upon what was currently in existence and that there would be more natural surveillance of the footpath once the development was completed and inhabited and that CCTV could be conditioned if Members requested it. The Principal Planning Officer responded to the comments raised regarding the footpath width that the widening to a dedicated cycleway could not be justified when the proposal before members was a betterment on the existing pathway. Members of the Committee heard that the RAMs contribution was included in the section 106 agreement and that Building Regulations were due to change to include Electric Vehicle Charging Points.

Further questions were raised by Members on the role on the footpaths in the area and the use of scooters, and whether the funding being provided to the Methodist Church would ensure that it was available for all residents as well as how the car club would work on the site.

At the request of the Chair the Principal Planning Officer responded to the points raised by the Committee outlining the car club vehicle would have a dedicated charger and that if Members had concerns regarding the distribution of monies to the Methodist Church then this could be reviewed through delegated powers for the officer to review the appropriateness of the proposed funding and potential alternatives. The Committee also heard that a dedicated cycle way would need an additional metre from the proposed site which had not been requested by the sustainability officer.

At the request of the Chair, Martin Mason of Essex County Council's Highways department responded to questions from Members. The Committee heard that the footpath to the south of the site was not proposed to be a cycle way and the improvements to this would ensure the entire stretch of pathway was 3.5 metres wide and that it was very likely that the development would be limited to 20MPH which would be an acceptable level for cycling on the carriageway.

In response to concerns raised by the Committee the Planning Manager clarified that although the Methodist Church was not in public ownership it was usual for the Council to provide monies to charities and trusts and when making decisions on where funding should be allocated to community venues the proximity of facilities was

always taken into account.

RESOLVED (EIGHT Voted FOR and ONE voted AGAINST) that the application be approved subject to the conditions and informatives in the report and amendment sheet and an additional contribution towards CCTV on adjacent Public Right of Way (PROW)

**894      211788 - Land West of 194 and East of 202 Old London Road, Marks Tey, Colchester, Essex**

The Committee considered an application for the development of the site for commercial, business and service (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 the application was classified as a major and objections had been received.

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

Simon Cairns, Planning Manager, presented the report and assisted the Committee in its deliberations. A presentation was given of the site outlining the proposal before Members of aerial views of the site including the access where the Planning Manager confirmed that Old London Road was part of the trunk road network and under the auspices of National Highways and not Essex County Council. The Committee heard that there were parking permit restrictions along the road and saw the detailed drawings of the Swept paths and manoeuvring on site and between the different buildings proposed on site and their proposed uses. The design indicated that there would be 150 parking spaces on site with 12% incorporating Electric Vehicle Charging Points and that there would be 360 vehicle movements a day with 96 being HGV movements and that the proposal would create 300 jobs. The Planning Manager outlined the detailed uses of the buildings including their external appearance and size as well as the requirement for a 3.5m high acoustic fencing to prevent any loss of residential amenity for neighbouring houses and the details of the cycle and footway link from the site which also included an amendment to have the path lit so that it could be used through the winter encouraging sustainable travel. The Committee heard that there had been a request to amend the operating hours which had been denied. The Committee were also asked to note the amendment sheet and its contents including a letter from the Rt Honourable Priti Patel MP regarding the proposals on the site and the consultation response that had been received from National Highways. The Policy status of the site was commented with it being included in the emerging Local Plan and the Neighbourhood plan and its current status which could be afforded significant weight as it was at an advanced stage. The access to the site was shown to the Committee and it was commented that there was considerable controversy in the findings of no objection from National Highways. The Planning Manager concluded by outlining that the proposal provided significant employment benefits for the area and that the officer recommendation was for approval as detailed in the Committee report and the amendment sheet.

Parish Councillor Gerald Wells, Marks Tey Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in objection of the application. The Committee heard that the Parish Council requested the Committee defer the application to receive further information on the access to the site especially with regard to the access and vehicle movements. Concern was also raised with regard to the footpath/cycleway whereby the risk of the proposal was being transferred to the Parish Council which was unacceptable. The Committee also heard the concerns that the replacement car parking following the loss of the on street parking would not work and the increased vehicle movements in the area would have a significant impact on the air pollution for the existing residents. It was noted that the Parish Council were also awaiting to convene a meeting with National Highways, the Right Honourable Priti Patel MP and Colchester Borough Council planners to look at the issues surrounding the site. The speaker concluded by asking the Committee to delay the decision and defer the application to review the proposal in more detail especially with regards to the response received from National Highways.

James Firth (Agent) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 and in support of the application. The Committee heard that the since the previous application had been withdrawn significant work had been undertaken to bring forward a first class business site and which provided 300 jobs to the local economy which carried significant weight. The speaker outlined those changes had been made to the application after submission in light of discussions with the Council and its consultees which included amendments to the proposed cycle parking and electric vehicle charging points and advised the Committee that National Highways works were not within the Applicants control. The speaker concluded by outlining that the proposal should be judged against the adopted local plan, that there would be extensive cycle and pedestrian access to the site, that the proposal was acceptable to the Highway Authority, that there had been no statutory consultee objections, and that there would be significant economic benefits if approved. Councillor Barber attended via zoom and with the consent of the Chair addressed the Committee. The Committee heard that the Councillor had met with the Right Honourable Priti Patel MP and Marks Tey Parish Council regarding the Highways proposals and the response that had been received from National Highways. The Committee heard that after this meeting and intervention from the MP there was a way forward and a solution could be found on the matter if the Committee deferred the application so that this could be explored. The Councillor outlined that there was a golden opportunity to resolve the application and involve residents in the solution. The Democratic Services Officer read out a statement from Councillor Kevin Bentley who was unable to attend the meeting. The Committee heard that there was no dispute regarding the need to encourage businesses to grow and expand but that this must be done with proper consideration to existing communities whilst looking at the long-term effects. It was noted that there was a need improve the infrastructure in a sustainable way to prevent negative effects on residents in Marks Tey and those that would live there in the future. The proposed development would create large amounts of congestion with no improved junction on the A120 and asked Members to note that congestion would not be eased by the introduction of electric vehicles and that this meant greater consideration would be needed for the access to the site. He urged Councillors to defer the application until further options could be explored and meetings to take place with National Highways and Council Officers as there was only

one opportunity to get this right.

The Democratic Services Officer read out a statement from Councillor Andrew Ellis who was unable to attend the meeting. The Committee heard that the Councillor expected there to be a large amount of discussion on the highways proposals and that the application as proposed could break the highways network in the area. It was outlined that the highways proposals were currently in their planning stages and that further conversations were needed between all involved parties to resolve issues as this was not happening at the time of writing. The statement asked the Committee to look into the built form of the proposal, the landscaping on the site, use classes of the proposed buildings and section 2.3 of the report which the Member did not agree with. The Committee heard that although the site may relate to the adjacent one it did nothing to enhance the area and that the scheme needed to be completely redesigned in terms of its landscaping including the proposed policy in the emerging Local Plan of ENV1. The lack of planting and landscape was noted as was the proposal for the 3.5 metre acoustic fencing which would detrimentally impact on the landscape as well as residential amenity. An additional point was raised regarding the scale of the development and whether the proposal constituted overdevelopment of the site. Concern was raised over the proposed use classes on the site and whether a change to more B1 use would lessen possible HGV issues and also with regards to the Neighbourhood Plan in its current form and what weight was given to the policies. The statement concluded that the Committee could refuse the application on the grounds of overdevelopment and poor landscaping as well as noncompliance with the neighbourhood plan or defer the application so that the scheme could be renegotiated.

At the request of the Chair the Development Manager responded to the points raised by the speakers and the representations read out. The Committee heard that no statutory objections had been received, and that the landscaping officer had found it unacceptable and asked for different plans to be submitted and that in light of Councillor Ellis's comments the noise from the site could be mitigated through additional planting and that any increase in B1 use would also limit noise and HGV movements. The Development Manager outlined that if there was any removal of car parking spaces on Old London Road the highway would continue to be safe and that there was no development consent order in place to deliver the A12 works and that Members had a duty to determine the application that was before them.

Significant concern was raised by Members of the Committee regarding the proposed access and vehicle movements that would be created by the site as well as the proximity to the A12 as well as concern that the relevant agencies were not communicating sufficiently. Members of the Committee discussed the drawings shown regarding the Swept paths for articulated vehicles as well as whether widening of the access would be required to allow two HGV's and other wider vehicles that use the road could pass each safely. The 300 jobs that would be created by the site was noted by Members as a significant economic consideration but there was also concern about the design of the buildings on site and their proposed uses including an overdevelopment of the site. The Committee discussed the implications of the emerging Local Plan, the existing development plan, and the significant weight associated with the Marks Tey Neighbourhood Plan especially with regard to policy MT15.

Members of the Committee explored the details of the site including the environmental damage from the site through loss of trees and hedgerows, the proposed movement of parking spaces onto the site, and whether the application should be refused. At the request of the Chair, Mark Norman of National Highways addressed the Committee and outlined that the proposal had not received an objection as the junction as proposed did not exceed its current use class and would be unsustainable to object on those grounds based on the level of movements that would be caused by the development.

Members of the Committee continued to debate the application on the issues including the needs and requirements for Traffic Regulation Orders in the area, reasons for deferment of the proposal and possible reasons for refusal. However, it was noted that there was no objection from Highways England in respect of the highways issues. In view of this, it suggested that the application be deferred so that further negotiation could be undertaken to address the Committee's concerns on highways and parking issues, potential overdevelopment of the site and the potential impact on the amenity of neighbouring residents.

RESOLVED (SIX Voted FOR and THREE Voted AGAINST) that the application be deferred to seek negotiations to:

- Address highway access issues and compliance with NP Policy MT15 involving Members, MP and National Highways in light of planned A12 improvements and imminent Development Consent Order NSIP for the A12;
- Reduce quantum of built form on site to avoid over development of site and allow for increased tree retention and potential landscape buffers to boundaries especially those adjacent to dwellings
- Improve streetscene to Old London Road, with better contextual design for Unit 1100
- Resolve onstreet parking for residents and delete suggested TRO to remove the parking bays for residents
- More effective mitigation for residents amenity;
- Review proposed mix of uses to seek to reduce HGV movements e.g. by reducing B8 and increasing E c) uses.

**895      Amendment to Legal Agreement -Application 190665 - Land between Via Urbis Romanae & Mill Road, Land South of Axial Way, Colchester**

**Councillor Warnes (as a Director of Colchester Commercial Holdings Ltd) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a report that sought a proposed amendment to the legal agreement process and also requests additional conditions as required for the hybrid application that was considered by the Planning Committee on 29 July 2021 when it approved the application subject to a S.106 agreement and conditions. The report was referred to the Committee as Colchester Borough Council was the Applicant. The Committee had before it a report and amendment sheet in which all information was set out.

Simon Cairns, Planning Manager, presented the report and assisted the Committee in

its deliberations. A presentation was given of the proposal outlining the history of the application being approved and that the report was being brought before Members to ensure that the process was conducted as transparently as possible. The Development Manager concluded with the officer recommendation of approval. Members discussed the proposal and the reasons why the application had been returned to the Committee including that the Council was the owner and applicant of the site.

RESOLVED (EIGHT VOTED FOR and ONE ABSTAINED from VOTING) that the proposed amendment to the Legal Agreement process and the agree additional conditions as set out in the Director's report be approved.