

# Planning Committee

## Thursday, 24 November 2016

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

**Substitutes:** Councillor Chris Pearson (for Councillor Rosalind Scott)

### **414 Site Visits**

Councillors Barton, Chuah, Hazell, Higgins, Jarvis, Liddy, Loveland and J. Maclean attended the site visit.

### **415 160868 Tollgate Village, Land north and south of Tollgate West, Stanway**

The Committee considered an outline application for mixed-use development comprising leisure uses (use class D2) including a cinema and retail (use classes A1, A2, A3, A4 and A5), with associated parking including a multi-storey car park, public realm improvements, access, highways, landscaping and associated works (Re submission) at land north and south of Tollgate West, Stanway. The application had been referred to the Committee because it was a significant departure from the Adopted Development Plan, the recommendation was for refusal, the application included a Section 106 Agreement, an identical application (reference 150239) was subject to an appeal and considerations in the report may have relevance to the Council's case at appeal, the previous application had proved highly controversial, it raised the issue of prematurity in the context of the current Local Plan process and the proposal fell within the category of development which could require referral to the Secretary of State. The Committee had before it a report and amendment sheet in which all the 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.

Vincent Pearce, Major Developments Specialist, presented the report and, together with Simon Cairns, Major Developments and Planning Projects Manager, and Karen Syrett, Place Strategy Manager, assisted the Committee in its deliberations.

The Chairman reported that a letter of representation had been received from Priti Patel MP. The Chairman further indicated her displeasure that the representation had not been submitted until immediately prior to commencement of the meeting. The letter was

in support of the application on the following grounds:

- Jobs and growth were welcomed;
- Loss of employment land had been acknowledged as a non-substantive reason for the refusal of the application and had been withdrawn;
- Harm to the retail hierarchy and failure to satisfy the sequential test was not evidenced;
- Harm to planned investment in the town centre had not been substantiated;
- The Tollgate Village proposal complements the town centre;
- Tollgate Village would attract retail spend that would otherwise be lost to competing centres;
- The risks of harm had been exaggerated;
- A refusal of the application would send out a message that Colchester was closed to business.

Alistair Ingram, on behalf of Tollgate Partnership, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the unprecedented level of public support given to the application which he considered was unsurprising, given the benefits the proposals would deliver including investment, leisure facilities, jobs, and highway improvements. He considered that arguments against the application on the basis of prematurity were unfounded and he welcomed the Council's recommendation to withdraw the loss of employment land grounds for refusal of the previous application. He also referred to the change in retail consultants being used by the Council in the assessment of the application which had led to a new reason for refusal being put forward. He referred to the sequential test arguments made against the application whilst, by comparison the, the consideration of the forthcoming Northern Gateway application had been deemed to meet the sequential test. He was of the view that inconsistent advice was being given to the Committee members by its officers and he advocated approval of the application in order to give the public what they wanted.

Daniel Watts, on behalf of Tollgate Partnership, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He acknowledged that the Committee members may be wary of determining applications contrary to officers' advice but he considered that the officers' advice in relation to the Stane Park application had been shown, at appeal, to be incorrect and, as such, could not be relied upon. He referred to the strong support from residents for the application, the many jobs which would be created, additional investment, the ability to retain consumer spending in Colchester and the attraction of visitors to the Borough. He referred to the alleged negative impact on the town centre and the Northern Gateway but he considered that the town had much to offer in terms of leisure, culture and history such that all these aspects should work together to enhance the town.

Marcus Harrington addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was of the view that the

many benefits referred to within the proposals should be welcomed for the town. He aspired to Colchester being a beacon of excellence, he wanted the best for the town as a whole and considered the application to represent a fantastic opportunity. He was of the view that the Tollgate proposal and the town centre were mutually beneficial and that competition between the two would be good thing. He urged the Committee members to view the application favourably.

Councillor Bentley attended and, with the consent of the Chairman, addressed the Committee. He explained his concern regarding economic development. The applicants had been informed that their proposals were contrary to the Council's planning policies but he speculated as to whether the policies remained fit for purpose. He referred to the Garden Community proposals which would bring many more people to the area who would require more retail choices in the area. He acknowledged the quality of the town centre High Street but considered this was not the only answer. He questioned the cost of the consultants who had provided opinions not in support of the proposals but was of the view that forecasts into the future were very likely to be inaccurate. He agreed that the determination of the application would be an 'on balance' decision but he urges careful consideration bearing in mind what was best for Colchester in the future with increased numbers of people and cars and the need for additional places to shop. He referred to the opportunity to set the agenda for Colchester, for the wishes of large numbers of residents to be heeded and he urged the Committee members to approve the application.

Councillor Lissimore attended and, with the consent of the Chairman, addressed the Committee. She referred to the petition, signed by 2,269 people, which she had presented to the Committee when it considered the previous application. She reminded the Committee members of the additional comments which accompanied the petition, many of which were critical in terms of residents being listened to, the need for jobs to be considered, the impact on the town centre being exaggerated. She had offered to present the petition as she felt the consideration needed to be balanced and she wanted a full discussion of the merits of the proposal. She referred to the numbers of new houses being built in Stanway which she felt would be enough on their own to sustain the development. She regretted the numbers of residents who opted to travel to cinemas in Braintree and Ipswich. She did not consider there to be retail units of adequate size in the town centre to accommodate the proposals and, as such, there was not an alternative town centre location for the applicants to consider. She urges approval of the application for the sake of the residents of Stanway and the signatories of the petition.

Councillor F. Maclean attended and, with the consent of the Chairman, addressed the Committee. She was representing the residents of Stanway and Stanway Parish Council who both strongly supported the proposals. She considered the Council should be 100% behind the developers. Many new houses were being built in the area and these residents would need places to work and shop. The development would be well served by improved bus links. She considered the alleged negative impact on the town centre to

be guesswork and was of the view that both the town centre and the Tollgate Village application could be supported and promoted. She considered the town centre to be used as a selling point to highlight the town and considered it could be retained at the top of the retail hierarchy with residents continuing to travel there to shop. She was of the view that the Local Plan should not be used as a reason to refuse the application on the basis that it was similar to the application at Stane Park and may well be referred to an Inspector to determine at appeal. She referred to the recent approval of proposals at Northern Gateway and the possible perception of bias. She also highlighted the changes in the way people now shopped and urged the Committee members to bear in mind these changes and the need to move forward.

Councillor J. Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She spoke on behalf of local residents who overwhelmingly wanted more shops in the area. She considered the Parish Plan continued to be relevant and was of the view that consideration needed to be given to the additional traffic generated as a result of the development. Residents had already expressed concerns about traffic congestion around Tollgate and, as a consequence, residential roads being used as short-cuts. She welcomed the inclusion of additional pedestrian crossings and the emphasis being placed more on pedestrians rather than cars. Some roads were also subject to on-street parking problems and questioned the capacity of the proposed multi-storey car park and whether it would be possible for it to be used on a long-term parking basis. She referred to the need for a balance between leisure and retail uses as well as business uses. She welcomed the inclusion in the proposed Section 106 Agreement of measures to address litter problems and sought an assurance regarding the security of the parking areas at night time.

Councillor L. Scott-Boutell attended and, with the consent of the Chairman, addressed the Committee. She welcomed the proposal and the associated investment in the area and, whilst acknowledging the outline nature of the application, she commented that no information was available as to who or what would be occupying the units. She supported the clarifications sought by Councillor Jessica Scott-Boutell and the need to ensure conditions were adequately enforced. She sought additional assurances regarding potential litter picking arrangements, confirmed the need for the local highway network to be of sufficient capacity to cope with additional traffic and suggested the imposition of an additional condition providing for future highway improvements at the expense of the applicants in the event of significant adverse traffic implications. She further sought agreement to an additional pedestrian crossing, agreement to a recruitment scheme to benefit local residents within walking distance of the development as well as adequate parking provision for drivers with disabilities.

In response to comments raised, the Major Developments Specialist confirmed that the evidence provided by Cushman and Wakefield, the Council's retail consultants, had confirmed that the application would not be considered complementary to town centre. He did not consider that the issues relating to Stane Park, which was for A3, A4 and A5

uses, were similar to Tollgate Village, which was predominantly for A1 use. He was of the view that it was important for the Committee to take a view on this application as it reinforced the ability of the Council to make the major strategic decisions affecting the borough as a whole. He explained that it was not within the authority of the Committee to require the applicants to enter into conditions to address matters which may occur in the future and, in any event, Essex County Council, as the Highway Authority, had provided comments as to what measures were considered to be necessary to make the proposals acceptable on highway grounds.

Some members of the Committee were of the view that the case to refuse the application had not been made adequately and that it was misleading to compare the proposed development with the town centre. Additionally, recent and future planned investments in the town centre were a reflection of its ongoing sustainability whilst the shopping experiences at Tollgate and in the town centre were very different, would complement each other and provide greater choice. Further, the extent of house building in Stanway needed to be matched with local jobs and retail facilities, particularly given the views expressed by many Stanway residents. The proposals represented an opportunity for considerable investment in the Stanway area, for the existing retail offering at Tollgate to be enhanced and should be supported

Other members of the Committee considered that the allocation of land within the Local Plan remained the overriding consideration and, whilst acknowledging the benefits to be derived from the application, in terms of jobs, highway improvements, enhanced bus services and retail choice, were of the view that the scale and size of the proposals were too great and would have a significant detrimental impact on the town centre and the need to protect it. Concern was also expressed regarding the impact of the development on local infrastructure, in particular, traffic congestion in the area whilst the views of residents in the Stanway area needed to be weighed against what was of greatest benefit for the Borough as a whole. Reference was also made to the emerging new Local Plan and the need to support this ongoing process.

RESOLVED (SIX voted FOR and FOUR voted AGAINST):

- (i) That the application be refused for the reasons set out in the report relating to conflict with retail hierarchy policy, urban district centre policy and the National Planning Policy Framework, prematurity and sustainable development and
- (ii) That the Head of Commercial Services be authorised to contact in writing as soon as is practically possible the Planning Inspectorate and the applicants/appellants, Tollgate Partnership, in respect of application reference 150239 to advise them that, at the forthcoming Public Inquiry set to commence on 10 January 2017, the Council :-
  - Is formally withdrawing the ground of refusal 1 (loss of employment land) from its decision and will not be defending that particular reason for refusal for the reasons described in this report and

- Is formally expanding its ground of refusal 2 (significant adverse impact on the Town Centre and retail hierarchy) and will now defend those additional aspects of significant adverse impact agreed in respect of application reference 160868 for the reasons described in this report and
- Will continue to defend reason for refusal 3 (prematurity) with wording amended to reflect ongoing progress with the Local Plan process and
- Will continue to defend reason for refusal 4 (sustainability).