

# PLANNING COMMITTEE

## 15 June 2023

<i>Present:-</i>	Councillors Lilley (Chair), Arnold, Davidson, Hagon, Hogg, MacLean, Mannion, McCarthy, McLean, and Warnes
<i>Substitute Member:-</i>	Councillor Arnold substituted for Councillor Barton Councillor Hagon substituted for Councillor Tate
<i>Also in Attendance:-</i>	Councillors Barber, Naylor, Scott-Boutell and Willetts

### 994. Site Visits

A site visit was conducted on the 15 June 2023 attended by Councillors Lilley, Hogg, McLean, and Davidson. Members visited the following sites:

- 220526 Land Adjacent to 67, Braiswick, Colchester, CO4 5BQ
- 223013 Bypass Nurseries, Dobbies Lane, Marks Tey, Essex, CO6 1EP
- 222429 Myland Lodge 301a Mile End Road, Colchester, CO4 5EA
- 230380 Land Adj to, 179b Shrub End Road, Colchester, Essex, CO3 4RG

### 995. Minutes

The minutes of the meetings held on the 27 April 2023 and 24 May 2023 were confirmed as a true record.

### 996. 220526 Land Adjacent to 67, Braiswick, Colchester, CO4 5BQ

The Committee considered an application for approval of reserved matters following outline approval 191522 – erection of 27 dwellings and associated development. The application was referred to the Planning Committee as it had been called in by Cllr Sara Naylor for the following reason:

- I doubt that high quality design can be delivered as required with a density of 27 houses.

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

John Miles, Senior Planning Officer presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown the location of the site north of Braiswick Road, and detailed that the site was currently rough grassland which was next to the A12. It was noted that the outline permission for the site had been granted at appeal

and that the site was part of a wider allocation within the Colchester Local Plan. The Committee were shown plans of the site which included: the layout of the dwellings on site, the types of dwellings on site, the road layout on the site and areas of public open space. The Senior Planning Officer detailed that there would be new tree planting on the site as well as wildflower seeding included as part of the landscaping proposal. The Committee were shown an illustrative street scene of what the application may look like if built as well as the house types which included 2.5 storey buildings. The Committee were shown the street scene elevations which showed the change in topography and steepness of the site down to the A12 border and how the proposed dwellings would sit in the landscape. The Senior Planning Officer concluded by outlining the officer recommendation of approval as detailed in the report.

David Mehigan addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that there were concerns about the proposed density on the site and that the objections regarding the site could not be considered as nimbysism. It was detailed that the proposal would significantly alter the landscape and did not create a distinctive character with the 10% open space that was required on the site. The speaker detailed that the site was riddled with challenges which could not be resolved and that the outline permission of “ up to 27 dwellings” did not mean that 27 dwellings needed to be put on the site. The speaker concluded by asking that the application be refused.

Jack Baron addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that they were the design director for the proposal and that the proposal would create 27 sustainable new homes in Colchester. The Committee were asked to note that the site benefitted from outline permission and that the indicative layout had been taken into account creating the proposal before the Committee which had been subject to pre- application meetings in 2021. It was noted that comments from this had been taken onboard and included in the application before the Committee. The speaker concluded by detailing that the site does lie on a hill and that high quality materials would be used on the site and asked that the application be approved as detailed in the officer report.

Councillor Sara Naylor addressed the Committee as Ward Member for Lexden and Braiswick. The Committee were thanked for visiting the site and drew the Committees attention to the references to topography in the report and detailed that they were convinced by residents that the original design of the proposal was drab and depressing but raised concern that the Council’s Urban Design Officer had given a lukewarm view on the proposal. Members heard that if the site was built as proposed it would just meet the Councils Planning tests and that the Ward Member had concerns over the inflationary costs in the economy and whether this would affect the viability of the proposal. The Ward Member raised concerns that this could lead to the developer reverting to the previous iteration of the site and that there was concern regarding flooding on the site. The speaker concluded by asking the Committee to defer the application on design grounds to seek improvements.

Councillor Lewis Barber addressed the Committee as Ward Member for Lexden and Braiswick. The Committee heard that the Policy HOU1 specified that the quality of design had to be the highest quality and that they echoed the concern from Cllr Naylor regarding the response from the Council’s Urban Design Officer and expressed their view that the design of the site was not of the highest quality which was detailed in the Neighbourhood Plan. The Committee heard that there was still further work to be done on the application with regards to the screening along the A12 and the open space that was on the site and

detailed that the argument for the principle of the development had been decided by the Planning Inspectorate but asked whether the applicant could redesign the site taking into account the density of the proposal.

Councillor Dennis Willetts addressed the Committee as a Ward Member for Lexden and Braiswick. The Committee heard that the planning system balanced the benefits and harms to the locality and that if the development does not represent the expectations of Braiswick then it should not be permitted. The Ward Member raised concern over the trees and hedgerows being destroyed and queried whether the design was up to the standard that the City could be proud of and whether policy DM15 and the enhancement of the area was sufficient for the reserved matters application to be approved. The Ward Member also referred to the comments from the Urban Design Officer and how they had also been lukewarm to the proposal with the Member feeling that the proposal did not create a high enough quality scheme with there being significant impact on the visual impact on the area and immediate environment. The Ward Member concluded by asking that the application be deferred for further consideration on the visual impact of the proposal and how this could be improved.

The Chair addressed the Committee regarding the points of design and read out policy HOU1 so that the Committee were all aware of the policy.

At the request of the Chair the Senior Planning Officer responded that the change of character of the site had been considered including the density and the style of the site, it was noted that this was something that considered by the Planning Inspector when they allowed the site at appeal. The Committee heard that the proposed density of the site was acceptable to Officers and that the scheme did deliver on the quality of design and that there had been significant improvements on this since the application had been submitted to the Council. The Senior Planning Officer detailed that the proposal sat comfortably in the street scene and that the proposal accorded with the Local Plan and the Lexden and Braiswick and that there were existing conditions regarding urban drainage and other conditions. The Committee heard that there was weighting within the National Planning Policy Framework (NPPF) paragraph 135 which protected the development quality and scheme from being eroded between approval being granted and completion of the site. The Senior Planning Officer detailed that the noise created by the A12 was accounted for and that additional insulation required was covered by the outline permission's conditions.

Members debated the proposal with concerns being raised regarding the placement of the open space on site including the Childrens play area, the speed limit along the main access road of the site as well as questions regarding the access to the rest of the allocation in the Local Plan. The Senior Planning Officer responded that the access to the site would be within a 30 MPH zone with new bus stops being added to the area with further confirmation being provided that the visitor parking was in accordance with the minimum standards. Furthermore, it was noted that some properties had a provision above the minimum standards for parking and that there was a condition that the garages on site had to stay as such. It was noted that the road on site had to provide a link to the remainder of the allocation in the Local Plan. The Committee heard that the areas of public open space would be maintained via a private management company and that the Inspector had considered the issue of noise levels at the appeal and that the proposal was not in an area of air quality management.

Members debated the proposal regarding the highest quality of build achievable and whether the tree row and its monitoring for 5 years after the completion was sufficient and whether the extra insulation on the proposals would add to the climate emergency as residents would

need to use air conditioning if they needed to keep their windows closed to stop the noise in their home.

At the request of the Chair, the Senior Planning Officer outlined that the design was subjective, but officers considered the quality of design to be a high standard and that the 5-year monitoring condition of trees was a standard condition from the Council with no previous issues being raised regarding a requirement for additional monitoring. The Committee heard that the proximity to the A12 had been noted but had ultimately been considered at the outline stage and subsequently at the appeal and that the change in ground levels had been considered when designing the proposal.

Members commented on the quality of the design with some Members expressing concern that the proposal did not meet the standards expected in the Neighbourhood Plan as well as concerns regarding the heat during summer and effect on the climate if windows could not be opened and air conditioning used as a substitute.

At the request of the Chair, the Development Manager added that the highest quality had to be balanced against the viability of a proposal in the context of a development and detailed that the frontage of the site would be screened whilst adding that the site was not in a conservation area. The Development Manager concluded by detailing that the Council had recently lost an appeal on a site in Tiptree where quality of design had been a reason for refusal and had thus shown that the Planning Inspectorates concept of highest quality may not align with that of the Councils expectations.

In response to a question raised by the Committee the Senior Planning Officer detailed that there would be obscuring glass on the side of the elevations of the proposed dwellings but that there were no harmful angles of overlooking on the site.

Members continued to debate the proposal with Members welcoming that the design had been improved since the original proposal submitted but that there were still concerns which included the road linkage of the site and why it had not been completed so that residents would not have to drive around the entirety of the site as well as the lack of footpaths near the site. Some Members felt that the entirety of the estate should be re-designed to increase the open space on site and place the larger houses on the south of the site. The debate concluded with the Committee discussing whether to defer the application to seek amendments on the design, layout, and density of the proposal.

A proposal was made and seconded as follows:

That the application be deferred to allow the Development Manager to seek amendments to the design and layout of the site and to consider the danger of the location of the children's play area location, public open space, and connectivity within the site, lack of community space and that a reduction in dwellings would enhance the design.

**RESOLVED (UNANIMOUSLY)** That the application be deferred to allow the Development Manager to seek amendments to the design and layout of the site and to consider the danger of the location of the children's play area location, public open space, and connectivity within the site, lack of community space and that a reduction in dwellings would enhance the design.

## **997. 223013 Bypass Nurseries, Dobbies Lane, Marks Tey, Essex, CO6 1EP**

The Committee considered an application for a change of use of land to B8 storage, retention of portable cabin for ancillary office, retention of earth bunds, proposed buildings for storage. The application was referred to the Planning Committee as the application had been called in by Councillor Ellis for the following reasons:

- The proposal does not accord with the adopted Marks Tey Neighbourhood Plan.
- Notwithstanding ECC Highways comments/ requested conditions, Dobbies Lane is patently unsuitable for the type and quantity of vehicles the proposed use requires/ generates, significantly compromising highway safety for both cyclists and pedestrians. Photographic evidence can easily be supplied by the Parish Council. I would ask for a Committee site visit so that they can fully appreciate the issues with this application. I could continue, but this should be sufficient reasons for “call-in” and we will expand on this at Committee.

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

Eleanor Moss, Principal Planning Officer presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown drone footage of the proposal and detailed that retrospective permission was sought for the office buildings on site with the land classed for business use as detailed in the Marks Tey Neighbourhood Plan. The Committee heard that the proposal sought to create a B8 use on site and with earth bunds and two storage buildings that would have a maximum height of 6.9m metres which allow machinery to load and unload. It was outlined that the landscaping proposal included a wildflower mix and trees. The Committee were shown photos of the site from various locations and noted the proximity to the A12. The Principal Planning Officer concluded by outlining that the site was in close proximity to the A12, that it was officers’ view that the proposal was not harmful to the Marks Tey Neighbourhood Plan, that there had been no objection from National Highways as there were no restrictions on Dobbies Lane.

Gerald Wells (Marks Tey Parish Council Chair) addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that the site was operating on an area which only a fifth of it had permission for use. The Committee heard that the objections from the Parish Council had been submitted in the written response and drew Members attention to the highways issues associated with the site as well as residents parking. The Committee were asked to note that there were existing issues on Old London Road which led to Dobbies Lane and detailed that the proposed highways conditions from Essex County Council were unenforceable and unworkable. The Parish Chair detailed that some of the issues on Old London Road would be resolved with the de-trunking of the A12, but the Neighbourhood Plan was not being properly considered. The speaker concluded by asking the Committee to defer the application to overcome the objections associated with the applications.

Ben Willis (Agent) addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in support of the application. The Committee heard that the applicant had worked to make sure highway safety could be ensured and worked to make sure that obligations on this had been met.

The Democratic Services Officer read out a statement from Councillors Ellis and Bentley, Ward Members for Marks Tey and Layer as follows:

*“Chairman, Committee members, please accept my apologies for not being here this evening. Both I and Cllr. Kevin Bentley are unable to attend, but please accept this submission on behalf of both of us. Unfortunately I have no control over when an item I have called in comes to committee.*

*Members, this is by no means a straightforward application. Few would argue that the site of the former Bypass Nurseries has not got an employment use nor that it has vehicle access via Dobbies Lane.*

*However, Nustone’s current use of the site and its retrospective planning application, is significantly greater in scale than the previous use, and covers some 5 times more area than the part of the site with existing B8 planning permission. Most of those few support comments on the planning portal speak about the rapid growth of this business and while we are most certainly not anti business, it does need to be carried out in the right location relative to its size and scale. This one, we would suggest, may have outgrown its current site and now requires one with significantly better road infrastructure than a narrow rural lane.*

*We should point out that the application incorrectly states that it is for ‘retention of earth bunds’, as the main bund that separates the site to the south has already been repositioned by Nustone some 30m towards Old London Road. Thus it is wrong to assume that Nustone have lawful use of the site on which they are currently operating. The vast majority of the site is being currently B8 used unlawfully, a fact that this Application is seeking to correct in order to avoid enforcement action. This significant growth of the use of the site if served by Dobbies Lane, is THE main highway threat to the Lane and Old London Road. The previous authorised use generated much fewer vehicle movements with smaller vehicles.*

*Members, this growth of use of the site and consequent greatly increased use of Dobbies Lane, the resultant destruction of its rural character, and risk to pedestrians and cyclists is THE prime concern with this Application. The Highways response simply does not address this and appears to be based on the erroneous assumption that the current use is lawful and as existed. As I have pointed out, it is not and it did not.*

*When challenged the County Council state that ‘The number of pedestrians using Dobbies Lane are not anticipated to be many but those that do will have to be aware of their surroundings and any moving traffic, large and small’. However, it is important for Committee members to know that National Highways proposals for the widened A12 includes a pedestrian/cycling/equestrian bridge over the new road with a connecting footpath that ends opposite Dobbies Lane, together with a new crossing to join to it. Is not the protection of pedestrians an important criteria for the County and City Councils and in this instance the response to this Application is making the situation worse and limiting future walking and cycling potential? Surely we are striving to get people out of their cars and to travel by foot or cycle whenever possible? Why remove the opportunity for the vast majority of Marks Tey residents, those living on the estates, to do just that, in accordance with Marks Tey Neighbourhood Plan policy for Dobbies lane and National Highways aspirations, in favour of a business which is located in the wrong place for the sort of business that it is carrying out? Dobbies Lane may look a short inconsequential lane to some, but when you look at this holistically you’ll understand what an important walking and cycling link it is, and how it becomes even more important after the A12 expansion.*

*The Highways response and CCC’s recommended approach to the Application rely on imposed conditions and one wonders how the required highway access timetable system or other conditions will be monitored or enforced? Especially with a company whose understanding of, or compliance with the rules, seems lacking, as illustrated by its unlawful active current use of the site.*

*We are genuinely concerned that the County Council's Highway Assessment of this Application is based on the incorrect assumption that the current use of the site is lawful, and whilst it is difficult for officers to take this or future National Highways proposals into account, that is precisely the task of this Planning Committee. Decisions such as this is why you make the determination, not officers. We therefore respectfully request that the decision on this Application be deferred and that confirmation be sought from the Highway Authority that its response is correctly based. If you permit this development before we have that response it can never be undone. We believe this is too important a decision for Marks Tey, with long term consequences, for you to do so. Thank you."*

Councillor Lewis Barber addressed the Committee as Ward Member for Lexden and Braiswick and as the County Councillor for Constable Division. The Committee heard that the County Council's Highways Department had not objected to the proposal but detailed their concern about the narrowness of the lane and asked Members to consider the how the proposal interacts with the Neighbourhood Plan. The Committee were asked to defer the application so that the Highways could continue discussions on the access point and as well as consideration of policy MT08 in the Neighbourhood Plan.

The Chair addressed the Committee and commented that they were astonished and horrified by the site work practices in terms of health and safety and use of forklifts and the way that they were being used in an unsafe manner.

At the request of the Chair, the Principal Planning Officer responded to the comments from the Have Your Say Speakers. The Committee heard that the site was currently a Sui Generis use and that the Marks Tey Neighbourhood Plan had designated the area for employment use as MT15 and that the proposal before the Committee was to regularise the use on the site.

Members debated the proposal and commented that it was a shame that a representative from Essex County Council's Highways Department was not in attendance to respond to Highways matters and that Dobbies Lane had been previously unregulated and queried whether there was scope for deferring the application to ask that a Highways Officer attend and advise the Committee.

The Development Manager detailed that the Committee could request the attendance of a representative from Essex County Council's Highways Department.

Members continued to debate the application with Members questioning how the use of the site was acceptable with the area being currently used much larger than the former nursery and the impact that this would have on Old London Road considering the other developments that had been accepted. Some Members felt that a full traffic plan was required before any decision could be made. The debate concluded with Committee Members raising concerns over the proposals relation to the Marks Tey Neighbourhood Plan and how the application had been assessed against this.

A proposal was made to refuse the application but was subsequently withdrawn and a proposal to defer the application for the following reasons was made as follows:

That the application is deferred to seek a site visit with the planning Committee and inviting the Essex County Council (ECC) Highways Officer to attend said site visit and the subsequent committee determination hearing and ask that ECC Highways investigate the use of Dobbies Lane and potential conflicts with pedestrians and cyclists on this key route (MTNP Policy MT08).

*RESOLVED (UNANIMOUSLY)* That the application is deferred to seek a site visit with the planning Committee and inviting the Essex County Council (ECC) Highways Officer to attend said site visit and the subsequent committee determination hearing and ask that ECC Highways investigate the use of Dobbies Lane and potential conflicts with pedestrians and cyclists on this key route (MTNP Policy MT08).

### **998. 222429 Myland Lodge, 301a Mile End Road, Colchester, CO4 5EA**

A short break was taken between 20:08 and 20:20 after the completion of application 223013 but before the commencement of 222429.

The Committee considered an application for part demolition of former horticultural buildings, conversion of a barn to residential use and the erection of 4 no. dwellings with garages and access. The application was referred to the Planning Committee as the application had been called in by Councillor Goss for the following reasons:

- Access to the site is off Braiswick Lane and not in the outline of Mile End Road so the access is down terrible lane by 1, 3 and 5 Braiswick which is unmade road and a tight bend as well as tight road. The access isn't suitable for this amount of housing.
- Dustcarts struggle to get down this lane, so access for building materials will be impossible.
- Over development of the site.
- Human Rights- this will affect the existing residents and affect their quality of life.
- Overlooking houses down Braiswick Lane – the Mersea Homes enclave is affected by both overlooking and access issue.

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

Hayleigh Parker-Haines, Senior Planning Officer presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown the layout of the site which took access off of Braiswick Lane and how the access would be serve the new dwellings. Members heard that the proposal had no outstanding objections but was subject to a unilateral undertaking with the officer recommendation of approval as detailed in the Committee report.

Robert Johnstone (Myland Community Council) addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that the proposal in different forms had been before the Committee twice before where it had been objected to by Essex County previously and questioned why they had not objected on the current application. The speaker outlined that Braiswick Lane was not a road but was a footpath which continued onto Braiswick Lodge. The Committee heard that there was a conflict between the cars and those walking who would be using the Public Right of Way and commented that there had been deletions of stretches of footpaths 46 and 224. The speaker concluded by detailing that the National Planning Policy Framework (NPPF) should enhance the Public Right of Way.

Robert Pomery (Agent) addressed the Committee pursuant to the provisions of Planning Committee procedure rule 8 in support of the application. The Committee heard that there was a presumption in favour of sustainable development and that the site as a windfall



development would contribute positively to the Council's housing land supply. The speaker outlined Braiswick Lodge had been on site for over a hundred years and that the proposal would incorporate the building as part of the design and layout of the site. The Agent detailed that neighbourhood amenity had been considered with the proposal which would include obscured glazing for the bathrooms. The speaker concluded by detailing that they understood the concerns from residents and Ward Councillors, but that there had been no objections from Essex County Council's Highways Department.

Councillor Martin Goss addressed the Committee as Ward Member for Mile End. The Committee heard that Colchester City Council were currently not serving the area for waste collection on Braiswick Lane as it was not possible to get a vehicle to service the existing dwellings. The Committee heard that there was overdevelopment of the site and that previous iterations of the site had been refused by the Council and detailed that the proposal would impact on the Human Rights of the existing residents who lived in Braiswick Lane and detailed that there were sufficient grounds to defer the application to improve the access to the site. The Ward Member concluded by detailing that if the road access was ridiculous, that the road was not currently being serviced, and that Essex County Council's Highways Department had originally objected but had subsequently withdrawn this.

At the request of the Chair, the Senior Planning Officer addressed the Committee and responded to the points made by the Have Your Say speakers. The Committee heard that Essex County Council's Highways Department did not have an outstanding objection and that the access would be based on the existing junction on Braiswick Lane. It was noted that the Public Right of Way Team had been consulted on the application and did not object on the basis that there would be a conflict between vehicles and pedestrians and that it was proposed there would be a size 3 turning head on site which would allow larger vehicles to exit the site in forward gear. The Senior Planning Officer outlined that officers had not assessed the site as being overdeveloped or that there would be a significant impact on neighbourhood amenity.

Members debated the application and queried whether the issue of the dustcart not being able to access the lane would also mean that a fire engine would also not be able to as well as why the County Council's Highways Department had changed their mind. At the request of the Chair the Senior Planning Officer detailed that the County Council's Highways Department considered that it would be possible to get dustcarts and Fire Engines down the road once completed and that the conditions on the application ensure public safety and would detail the construction management plan and storage of materials on site.

Members debated the application further and queried whether further information was needed to make an informed decision on the application or whether the details could be conditioned. The Senior Planning Officer confirmed that the details could be conditioned with some Members outlining that they did not feel that there was a significant pedestrian conflict.

It was proposed and seconded that the application be approved as detailed in the officer recommendation with the additional details as follows:

- That further details be secured regarding waste collection to ensure that the properties can be serviced.

*RESOLVED (EIGHT votes FOR, ONE vote AGAINST and ONE ABSTENTION)* That the application be approved as detailed in the officer recommendation with the additional condition that further details are secured regarding waste collection to ensure that the

properties can be serviced.

### **999. 230380 Land adj to, 179B Shrub End Road, Colchester, Essex, CO3 4RG**

The Committee considered an application for a new 3-bedroom Art-Deco influenced dwelling and separate garage. (Revised Drawings). The application was referred to the Planning Committee as the application had been called in by Councillor Lissimore for the following reasons:

- Layout and density of building
- Design
- Loss of privacy
- Road Access

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

Hayleigh Parker-Haines, Senior Planning Officer presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown the layout and elevations of the site as well as site photos of the area. The Officer detailed that the application was recommended for approval as detailed in the committee report.

Jenny Goldsmith addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that they lived next door to the proposal and if it was approved there would be a detrimental impact on their lives with the main reception room in the proposal only 7 metres away from their house. Members were asked to note that if the proposal was built then it would be unsafe for their children to play outside the front of their home. The speaker noted that Essex County Council's Highways Department said that they could not see an impact but that this would have a large impact on the narrow access to and from the site and that the loss of biodiversity on the area would affect everyone in the area. The Committee heard that the proposal was not in keeping with the surrounding area with further concerns being raised about noise created from the roof terrace.

Councillor Sue Lissimore addressed the Committee as Ward Member for Prettygate. The Committee heard that the proposal would cause Highways issues with the nursery on the access road and that the proposal was overbearing and out of keeping with the area and would overlook existing properties in the area. The Committee heard that this should be considered as back land development and that the design should assist the area and asked the Committee to consider whether the development sat in harmony with the surroundings. The Committee were advised that the proposal did not reflect the local area and that the access arrangements to the new dwelling were inadequate and that the proposal was contrary to policy DP15 and that the site was an integral part of the area and had a large number of animals living in it. The speaker concluded by asking that an archaeological survey be conditioned if approved but asked that Members refuse the application.

At the request of the Chair the Senior Planning Officer responded to the points raised by the Have Your Say speakers. The Committee heard that the proposal was on what had once been a part of the pubs car park, that the site would have to provide 10% Biodiversity net gain with the baseline being the current biodiversity as assessed on the site. It was outlined that the design was a subjective matter and that the proposed dwelling was bigger than those existing but confirmed it was in line with the established building line. The Committee heard that the design features included a circular focal point which reflects the hexagonal feature

of the existing pubs design and that it did incorporate an art deco design and that the roof terrace was addressed in the report.

Members debated the application and queried the ecological data provided as there were no records of badger sets on the site but there were 44 recorded sightings in the area with no further sightings since 2021. Members queried what the timeline was surrounding the ecological surveys and whether there was any evidence of the sets being stopped up.

At the request of the Chair, the Senior Planning Officer detailed that a pre-commencement condition had been agreed and that the standard procedure had been followed regarding the ecological evaluation of the site and that if there was an absence of data the Council would consult with Place Services at Essex County Council.

The Development Manager further clarified that if an ecological report timed out or was no longer assessed to be representative of an area then a new one would be requested from the applicant. The Development Manager confirmed that it was important to ensure this and that an up-to-date evidence base was submitted and that if there was any concern over this then the Council would consult with Place Services as the Senior Planning Officer had detailed. Following a further question, the Development Manager confirmed that the Council did consult with the Badger Group.

The debate concluded with Members discussing the proposal and the ecological impact of the application based off the evidence provided.

*RESOLVED (THREE votes FOR , ZERO votes AGAINST with SEVEN ABSTENTIONS)* That the application be approved as detailed in the officer recommendation.

#### **1000. 230777 Kroonstadt, 63 London Road, Copford, Colchester, CO6 1LG**

The Committee considered an application for a change of use of a section of residential garden into a secure dog exercise field. The application was referred to the Planning Committee as the application had been called in by Councillor Ellis for the following reasons:

- Detrimental impact on neighbouring residential amenity (location, hours of use, nature of use);
- Inadequate size for a dog exercise field

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

Kelsie Oliver, Planning Officer presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown the proposal of the site and the security features that included 6-foot fencing posts on the neighbouring boundaries, a dog waste bin, and entry details of the site being controlled by a booking system that would mean there would one car on site at any one time. The Committee heard that the site complied with the relevant highways requirements and that a passing place was proposed so that there would not be access issues along the single-track road. Members heard that policy DM6 supported the proposal and that any waste from the site would be removed from the site. The Planning Officer confirmed that the planning conditions proposed could provide security and that the application was recommended for approval as detailed in the officer recommendation.

Nigel Sagar addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in opposition to the application. The Committee heard that the proposal would have a severe impact on the privacy of local residents through the movement of the dogs and that the entrance would compromise security with the entrance being within 2 metres of one neighbour's front door. Concern was raised over the hours of operation on the site as well as the proposal being sited outside of the settlement boundary and that there would be an arms-length booking system which would not offer sufficient security on site. The speaker concluded by detailing that there was no proven local demand and that Copford had an established area for dog field and that the proposal was a dangerous risk to landowners.

The Democratic Services Officer read out a statement from Councillors Ellis and Bentley, Ward Members for Marks Tey and Layer as follows:

*“Again, I apologise for not being with you this evening, as I’ve explained, I had no control over when this was brought to Committee. Once again, this submission should be considered to come from myself and Cllr. Kevin Bentley.*

*I called in this application because it has caused a huge amount of upset and consternation in its local area, was objected to by the Parish Council and Cllr. Bentley and I agreed with many of the objections. I did not expect it to come before committee and fail to understand how a planning officer could see fit to recommend this for approval. It is a dire application using a simple and rather poor business plan as the planning statement and basis for the application.*

*The site area is woefully inadequate for the purpose proposed. The applicant, who lives in Bedford where his business is registered, has we assume failed to find larger more suitable pieces of land closer to his home. Happy K9 Ltd was incorporated in April of this year and has no other dog exercise facilities. This application would be its sole ‘business’. The applicant has, it appears, decided to try to build a business by utilising a piece of land belonging to his father, also domiciled in Bedford. We understand his father also owns the property (no 63) which stands in front of this back land site, which, contrary to para 4.1 of the officers report does not form part of Kroonstadt, 63 London Road. It is an entirely separately registered land holding and is not part of the garden. The proposal is for him to manage the business remotely, and physically visit once a month. Nowhere in the application does it propose providing local rural employment, so why has the planning officer stated that policy DM6 is relevant when it clearly does not meet a local employment need? This application is to provide an income to a single business owner in Bedford. Also contrary to the report, it is not a piece of residential garden, it might look like it, but it isn’t. We’ll repeat, it’s a stand-alone separately registered land holding with no access to water nor electricity, the former being an essential we suspect of an area where dogs are exercised?*

*Neighbouring amenity. Please read para 16.9 of the officers report and reconcile that with the neighbouring elderly residents, one with an adjacent open aspect garden. If you have undertaken a site visit you will understand this issue. Imagine having lots of people you don’t know coming and going at the bottom of your garden from 7.30 in the morning until 9pm? While we sincerely hope that you do not, if committee were minded to approve this application, at least look at and change those hours, taking summer and winter time into account.*

*We note Highways have raised no objections and know that Committee members attach import to Highways recommendations. We imagine sitting at ones desk the proposal might look safe to a highways officer. But try exiting the driveway for real and you will find that to*

*cross the footpath you can't see pedestrians or cyclists approaching from the right until they are upon you. This is due to the brick pier and trees belonging to no.63, outwith the control of the applicant as this belongs to his father and is an entirely separate land holding to the application site. At the very least can Committee check that Highways actually conducted a site visit? If not, defer and request that they do so? This is a busy road and safety should be of paramount importance. A track to access a piece of land used very occasionally by the owner has a very different number of vehicle movements, with their associated risks, than a dog exercise area, we won't call it a field, it isn't one.*

*Committee, we urge you to refuse this application, it is not for local employment, it adversely affects the amenity of neighbouring properties, the entrance/exit onto London Road is not a safe one and it does not sit comfortably with, nor enhance, the area in which it is proposed, one of the prerequisites of any planning application. Thank you."*

At the request of the Chair the Planning Officer responded to the points raised by the have your say speakers. The Committee heard that it was proposed within the application that there would be an electricity and water supply to the site and that the Council's Environmental Protection Team had assessed that the amenity and conditions were appropriate for a small-scale business. The Development Manager added that the proposal was a very low intensity use and with the buffer period built into the bookings system it could almost be considered a domestic scale of use. It was noted that the conditions only allowed 2 dogs at a time.

Members debated the proposal on issues including: the location of the site being close to farmland and outside the settlement boundary, that there was a concern that the proposal would impinge on the quality of life of the existing residents when there was an existing site for this type of activity in Copford, that there was a lack of management of the site to police issues that arose. Members raised further points regarding the contamination of the land from dog excrement as well as the security of the site and suggested whether CCTV would be an appropriate remedy.

Members continued to debate the proposed noting that a dog field was not a passive income stream and that it might be unsuitable if it is near to residential properties as well as some Members raising concerns about the use of CCTV. The Development Manager advised the Committee that should they believe that a permanent permission was not appropriate then a temporary permission with the details of the management strategy to be submitted as a condition could be granted.

A proposal was made and seconded to refuse the application for the following reasons:

That the application is refused due to a lack of on-site management of the facility in a residential area and the close proximity to neighbouring residential properties and consequently the potential for noise and disturbance to their amenities arising from the unmanaged nature of the enterprise contrary to Local Plan policies DM15, DM6, OV2.

**RESOLVED (NINE votes FOR, ZERO votes AGAINST, and ONE ABSTENTION )** That the application be refused for the following reasons as detailed below:

That the application is refused due to a lack of on-site management of the facility in a residential area and the close proximity to neighbouring residential properties and consequently the potential for noise and disturbance to their amenities arising from the unmanaged nature of the enterprise contrary to Local Plan policies DM15, DM6, OV2.

Following the completion of application 230777 it was proposed that the meeting continue and consider the remaining items on the agenda.

*RESOLVED (FIVE votes FOR and FIVE votes AGAINST. The Chair used their casting vote FOR the proposal)* That the meeting continue and that the remaining items on the agenda be considered.

#### **1001. 230775 The Stanway School, Winstree Road, Stanway, Colchester**

**Councillor Arnold chose to speak as a Ward Member for application 230775 and not remain as part of the Committee for the debate or vote.**

**Councillor Lilley declared a non-disclosable interest in application 230775 as a previous Chairman of a football club.**

**Councillor Hagon declared a non-disclosable interest in the application as a Member of Stanway Parish Council. It was noted that Councillor Hagon had not been a part of the Stanway Planning Committee who had had responded to the consultation on the application.**

The Committee considered an application for retrospective stationing of demountable structure to form a clubhouse. The application was referred to the Planning Committee as the application had been called in by Councillor Arnold for the following reasons:

- Residents amenities will be significantly impacted by the light and noise pollution, the operation hours applied for will impact as it is a residential area.
- It appears although not mentioned in the application there is an associated shipping container which is not in-keeping with the street scene. Visitor parking is not contained on the site and spills over onto the highway network with dangerous implications.

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

Chris Harden, Senior Planning Officer presented the application to the Committee and assisted the Committee in its deliberations. The Committee were shown the proposal including the access point on the road and the parking restrictions that were on the Winstree Road. The Committee heard that the proposal catered for the teams who played on the school grounds during matches. The Senior Planning Officer outlined that there was concern about the vehicular movements on site but confirmed that it had been assessed that the Clubhouse would not create a significant increase in the area. It was further noted that the proposed traffic plan and thirty car parking spaces did not conflict with parking standards or highway safety. The Senior Planning Officer concluded by detailing that there was proposed to be a traffic management plan condition and that the recommendation was to approve the application as detailed in the officer recommendation.

Robert Pomery (Agent) addressed the Committee pursuant to the provisions of Planning Committee procedure Rule 8 in support of the application. The Committee heard that the proposal and the sports fields they were adjacent to were part of the community with many teams using the pitches during the year which included training sessions. The Committee were asked to note that the proposal was to regularise the unit which had facilities for tea making and that as the proposal was retrospective. The speaker concluded by detailing that the proposal would not generate movements and that it would only be open when a club was

on site and asked that the application be approved as detailed in the report.

Councillor Tracy Arnold addressed the Committee as Ward Member for Stanway. The Committee heard that the proposal would create further car movements in the area and detailed that the car park was not adequate as it was currently used by one hundred and twenty people and was overused. The Ward Member detailed that this would cause more frustration for residents with sheltered accommodation opposite the school. The speaker concluded by detailing that proposal was not in-keeping with the street scene and asked the Committee to defer the application to seek further information.

Councillor Lesley Scott-Boutell addressed the Committee as Ward Member for Stanway. The Committee heard that there were concerns about Highways with drivers parking indiscriminately following the expansion of the school meaning that some busses struggled to access the school. The Ward Member detailed that the club house could be used as a social space for meetings or entertainment purposes when matches were not on. It was noted that the proposal was not in-keeping with the street scene and that there was no mention of the container in the planning application. The Committee heard that this development was creeping beyond what it should and that it had been requested that the car parking situation be reviewed by the North Essex Parking Partnership (NEPP). It was noted that the sports on the field had evolved but questioned why it needed a guard hut and detailed that one objection had been made about the outrageous noise levels. The Ward Member concluded by detailing that the majority of residents had lived in the area before the school was built and that if not complied with this development would cause detrimental harm.

Members debated the application on issues including: the type of development that was being proposed in the context of the area, that the referee was in charge of the games being played, that the parking issues were noted and that further work could be done through the NEPP to remedy issues in the area, that the availability of the sports facilities refreshments would help support the clubs and their longevity.

*RESOLVED (UNANIMOUSLY)* That the application be approved as detailed in the officer recommendation.

## **1002. Revised Procedures for S106 Developer Contributions**

Karen Syrett, Head of Planning, presented the report to the Committee and assisted the Committee in its deliberations. The Committee heard that the report was not seeking to reduce Councillor involvement in the process and that the proposal had been before the Scrutiny Committee in March 2023 with the recommendation for an external audit which had since been conducted and provided recommendations. The Head of Planning detailed that there had always been Councillor involvement for spend release and that in 2021 this had been formalised to ensure that all Councillors were informed when money had been received and confirmed an improvement that if there were any problems or concerns then Councillors could contact the Head of Planning directly. A further improvement was that parishes would be informed and asked to identify spending, noting that this process had begun with requests for information from Parishes so that projects could be front loaded and allocated resources accordingly if projects do not take place. The Committee heard that all major applications consisted of 10 or more units and that some spending was very specific and that the report sought to formalise the process for all applications to ensure that the scheme was transparent.

Members debated the proposal noting that there had been a challenge and that this had been accepted and looked at by officers with comments and how this could be expanded via portfolio holder decisions for larger schemes.

The Head of Planning responded that spending was tightly controlled over £250,000 and that there was no call in for this process as it would be set out in a legal agreement. Further to this it was noted that the spend- release of funds had to be signed by the Head of Planning and the Monitoring Officer. The Head of Planning responded to further questions that there would be monthly reports and a table showing all the projects on the list including what needed to be added and what needed to come off.

Members continued to debate the proposal on issues including whether there was any appeal system built into the process. The Head of Planning responded that there would not be an appeal process as a decision had to be taken and confirmed that the monies did not have to be spent in the ward of the development site.

*RESOLVED (UNANIMOUSLY)* That the revised scheme of delegation be agreed in relation to the S106 Spend Release Protocol.