

## **PLANNING COMMITTEE 26 SEPTEMBER 2013**

*Present :-* Councillor Theresa Higgins\* (Chairman)  
Councillors Peter Chillingworth\*, Helen Chuah\*,  
Sonia Lewis\*, Cyril Liddy\*, Jackie Maclean\*,  
Jon Manning and Laura Sykes\*

*Substitute Members :-* Councillor Michael Lilley for Councillor Stephen Ford\*  
Councillor Gerard Oxford for Councillor Philip Oxford\*

(\* Committee members who attended the formal site visit.)

### **64. Minutes**

The Minutes of the meeting held on 12 September 2013 were confirmed as a correct record subject to the following amendments:

#### Minute Reference No. 58

- (i) "A Member of the Committee raised concern" be altered to "Members of the Committee raised concern..."
- (ii) The addition of "It was pointed out that DP4 contained no definition of community space and that the wording of the policy was so vague as to be unhelpful."

### **65. 121272 - North Colchester, Urban Extension, Mile End Road, Colchester**

The Committee considered a major outline application for a mixed use development comprising of residential dwellings, a neighbourhood centre including commercial, residential and community uses, education uses, strategic landscaping, green infrastructure and areas for outdoor sports facilities, access related infrastructure, other works and enabling works. 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 proposal upon the locality and the suitability of the proposal for the site.

Ms Karen Syrett, Place Strategy Manager, and Mr Alistair Day, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. The Place Strategy Manager explained the policy background behind the application. She stated that public consultation had been carried out several times before the Core Strategy went to examination and was then adopted by Full Council. Regarding the Site Allocation's DPD, three public consultations were undertaken and it had been adopted by Full Council following examination in public and receipt of a binding report from the Inspector. The National Planning Policy Framework, which came into effect in March 2012, introduced a presumption in favour of sustainable development and underlined the need to meet the needs for housing and that proposals that accord with the

development plan should be approved without delay. The affordable housing need in the Strategic Housing Market Assessment in 2008 was 1,082 dwellings per year.

The Principal Planning Officer explained the site context and that the proposed development parcels had been informed by the existing landscape structure. Full details of the proposed access arrangement had been submitted. It was explained that the main access into the development was from the diverted A134 in the north with a bus only access in the south. A full planning report had been prepared for the Planning Committee's consideration.

### **Have Your Say! Speakers**

Mr Peter Hewitt of Myland Community Council addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He said that inclusion of the proposed land in development plans was decided at Local Development Framework Committee, however he could not find reference to such a decision in any Minutes. He suggested that the developers were relying on the Housing Trajectories to bring the site forward and evidence demand for housing, although this was not an adopted document. He suggested that there would be more than sufficient housing in the Colchester area and that there had not been sufficient evidence to bring forward the date of commencement from 2021 to 2016, further suggesting that approval of the development would be unlawful. He also highlighted the greenfield nature of the site, claiming development on the site would be contrary to Government policy and that this development should not prejudice the development of brownfield land, such as Severalls Hospital.

Mr Andy Ward of Royal Haskoning DHV addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was a Transport Planning Consultant commissioned by Myland Community Council to review the transport documentation for the development. He commented that with the significant highways infrastructure proposed a cultural model shift was vital. He suggested that a condition was added to ensure no development was started until after the Park and Ride facility was established. He considered that provision for cyclists was deficient and that a footbridge over the A12 should be provided for in the Section 106 Legal Agreement. He suggested that the 2007 transport model should be validated and traffic counts checked to ensure the model remained valid. He questioned the use of trigger points for the Colne Bank highways works and suggested that regular payments from the start of the development would be more practical.

Ms Jean Dickinson of Myland Community Council addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She cited the National Planning Policy Framework, claiming that an application should be refused if the residual effects of transportation alterations were severe. She stated that the Core Strategy Policy required a transport strategy to be prepared but that the Council had failed to do this. Regarding money secured, she suggested that if funding for the development was not guaranteed then it should not be approved, claiming that there was £12,000,000 yet to be secured. She summarised Myland Community Council's objection to the application as non-compliance with Local

Strategy, incomplete and premature development, unaccountability and inadequate funding to mitigate impact.

Mr Lawrence Revill of David Lock Associates addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that the development was a result of seven year's work and supported growth in the area whilst being sustainable. He highlighted the significant provision of open space in the development, which would ensure the protection and enhancement of ecological habitats. He drew the Committee's attention to the development's provision of affordable housing and work carried out to mitigate any effects on local traffic. He hoped the development would benefit both the future and current communities.

Mr Mark Leigh of Vectos addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He said that the development had been subject to a high level of scrutiny from the local Highway Authority (Essex County Council) and the Highways Agency, with all the technical information submitted considered to accord with best practice guidance. He specified that the proposal, although supportive of behaviour change with regard to transportation, did not rely on such a change.

Mr Stuart Cock of Mersea Homes addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He emphasised that he was accountable to the local community and understood their concerns. He reiterated the need for new homes in Colchester and explained that this development was a long term investment, which needed to be sustainable. He stated that years of gathering evidence had resulted in a carefully and well thought out proposal that he hoped Colchester could be proud of.

Councillor Goss, Mile End Ward Councillor attended the meeting and, with the consent of the Chairman, addressed the Committee. He suggested the development did not have a proper business case and that it lacked healthcare resources, education facilities and retail provision, which would result in more traffic through North Station. The reduction of the retail store size had decreased the Section 106 funding by £2,000,000. The community centre at Severalls Hospital was paying £25,000 more. No mention had been made of the existing sports pavilion, which the applicant had previously stated he would refurbish. In his opinion, the flood risk had been underplayed. He claimed that the maintenance of open spaces had not been properly considered. He suggested that the aspiration of a 15% modal shift was implausible and highlighted that the development would likely become a commuter parking hub. He suggested that train links into Colchester would not be able to handle the increase in residents. The development vision was not sustainable and was without a business case.

Councillor Hayes, Castle Ward Councillor attended the meeting and, with the consent of the Chairman, addressed the Committee. She expressed concern about the effect of the development on air quality and traffic in the surrounding Wards. As Heritage Champion she underlined the need for strict archeological conditions. She criticised the methodology used for regarding ecological surveys and the need to protect

hedgerows, making reference to protected species and the site being a wildlife corridor. She stated that with the addition of 1,600 homes, wildlife would certainly be affected. She claimed that there were several brownfield developments that were struggling and if greenfield sites were to be approved this would deter further brownfield development. She said that although the Government policy on East of England growth had been revoked, Colchester was still continuing down the same route. She highlighted the need to balance development with the local economy, stating this scheme was premature.

Councillor Anne Turrell, Mile End Ward Councillor attended the meeting and, with the consent of the Chairman, addressed the Committee. She claimed that the local area had grown too fast and that the infrastructure would not be able to cope. She suggested that granting outline permission before infrastructure provisions were finalised caused problems, as conditions would be changed at a later date. She said the application provided no traffic plan and was not therefore compliant with the Core Strategy. She said the site was not sustainable. She said the development should be refused on the basis of development plan non-compliance, the priority of brownfield sites, highway safety and capacity issues, the timing of highway works, cost of funding and lack of viability. She suggested that Colchester did need housing but not at such a cost to local residents.

### **Committee Consideration**

The Place Strategy Manager clarified that the need for a fifteen year supply of housing land was raised as an issue when the Core Strategy was subject to examination. The fifteen years was from its adoption. At that time inspectors reports were binding, which could explain the lack of Committee Minutes. Although the Housing Trajectory is not a statutory document it forms part of the Annual Monitoring Report, which is a statutory requirement and which is adopted by Colchester Borough Council each year. The latest trajectory shows that there is a deficit in the fifteen year housing land supply. She explained that nowhere in the NPPF did it state that greenfield sites should be held back from development to allow brownfield sites to proceed.

The Principal Planning Officer explained that, in relation to transportation, the developers were only required to mitigate the effects of their proposed scheme and not resolve existing problems. The transport assessment had been considered by the Highway Authority and Highway Agency this, together with the mitigated package was considered acceptable. He highlighted that Myland Community Council had commissioned an independent review of the transport documentation and that, in the main, they had considered the transport assessment to be satisfactory.

In relation to Air Quality, assessments had been carried out on and off-site, which included the North Station Area and CBC's Environmental Control Officers had raised no objections. The flooding, ecology, Public Rights of Way and archaeology had all been considered, with no objections raised from the relevant bodies. It was also clarified that parking arrangements would be the subject of detailed applications and would be required to comply with CBC parking standards. The issue of commuter parking had been raised with the Highway Authority and there is not an objection in principle to a residents parking scheme covering this site but this would need to be

controlled by highway legislation. Likewise the requirement for bus corridors would need to be subject to a Transport Regulation Order.

The viability of the development was address by the Principal Planning Officer. The NPPF states that the development proposals should not be unduly burdened by policy or Section 106 requirements. The scheme had been subject to a viability appraisal and it had been demonstrated that it could not afford all Section 106 requests. The proposed Section 106 package seeks to address the Council's strategic priorities and those identified by the local community. The viability assessment used a lower land value than that outlined in the Community Infrastructure Levy evidence based work (£500,000) and used a profit of 17.5%, as opposed to the industry standard of 20%. If the land and profit values were raised, the Section 106 funding would be considerably less.

Mr Martin Mason, Essex County Council Highways Strategic Development Engineer, explained that conditions had been included to mitigate the effect of the development and it was likely the proposed works would also be of benefit to the existing community. He clarified that the model, although based on 2007 surveys, was still considered to be robust. He explained that the highway works related to part of the network which would be significantly affected by the development. He stated that the bus strategy related to the implementation of the development and that the bus operators would see the development as a positive commercial opportunity.

The Committee recognised the need to provide more homes in the area as well as affordable homes to meet demand. It was considered that the design of the proposal was well thought out and they were pleased to note the low density of housing and open spaces throughout, as well as the retention of trees and hedgerows. It was highlighted that the Core Strategy and Site Allocations DPD had been agreed by the, then, Local Development Framework Committee and Council.

It was clarified by Mr Vincent Pearce, the Major Developments Manager, that the Council was confident in the legality of the Officer recommendation.

Several Members of the Committee expressed concern regarding the highways ramifications of this development. A Member of the Committee commented that mitigation of the site had to include a positive impact on existing issues, otherwise it would not work. The bridge near North Station was cited as a particular area where 'funnelling' may occur. It was also emphasised that the proposal was taking into consideration the infrastructure improvement works previously agreed, including the Northern Approach Road 3, bus lanes, improvements to North Station and the Park and Ride facility, which would alleviate any 'funnelling' effect.

Uncertainty as to the sufficiency of future car parking capabilities was also raised, however Officers responded that a condition required car parking to accord with the Council's adopted parking standards.

A Member of the Committee raised concern regarding the impact of the development on Bakers Lane, which was narrow and often used as a short cut. It was explained that impact on this lane from traffic associated with this development would be minimal. It

was suggested that if Councillors had concerns regarding individual roads, they should consult the Local Highways Panel at Essex County Council.

Concerns were also raised as to the provision of education relating to the development, with the current oversubscription of schools in the area mentioned as a problem. The prospect of having to move children across the town to get to school was considered unacceptable.

The Major Developments Manager commented that Colchester Borough Council was not the Education Authority. Regarding suggestions that pupils would have to travel across Colchester to get to school, he suggested that Essex County Council may be required to rethink its approach to schools in the area, possibly retaining schools in the North Colchester area.

The Committee made the point that a street light reduction policy was to be drawn up by Colchester Borough Council and that this would need to be referred to when reserved matters were considered to ensure low emission lighting was used.

*RESOLVED* (EIGHT voted FOR, TWO voted AGAINST) that –

(i) The Secretary of State be advised that this Council is minded to grant a conditional planning approval subject to a) his confirmation that he does not wish to call the application in for his own determination; and b) the signing of a S106 Legal Agreement.

(ii) The Head of Commercial Services be authorised to complete the s106 legal agreement and undertake necessary amendments to ensure conformity between the planning conditions and the legal agreement and also authorised to amend the mechanism for delivering the required outcomes to provide the following:

- Affordable Housing
- 15% minimum affordable housing contribution on each phase of the scheme.
- A minimum of 10% to be provided as affordable rent unless otherwise agreed with the Local Planning Authority. A maximum of 5% to be Intermediate tenure such as Shared Equity, Shared Ownership of Shared Equity Percentage Commuted Sum. For Commuted Sums the Market value of the properties being offered will be ascertained by an RICS redbook valuation.
- Other form of rented tenure types may be acceptable if proposed by the Developer and accepted by the Local Planning Authority.
- Viability to be tested prior to the commencement of the 455<sup>th</sup> unit and again prior to 855<sup>th</sup> and finally 1255<sup>th</sup> unit to ascertain if future reserved matter applications can support an increased affordable housing percentage up to a maximum of the then current policy target.
- Viability test to be based on agreed model with land costs fixed and index linked

and profit percentages fixed and criteria so that if the parties do not agree it can be referred to an independent expert to adjudicate.

- The assessments shall be submitted not earlier than 355<sup>th</sup>, 755<sup>th</sup> and 1155<sup>th</sup> occupation unless otherwise agreed with the Local Planning Authority.
- The type and size of Affordable Housing units in each phase to be guided by the Strategic Housing Market Assessment that is relevant at the time and agreed by the Council.
- No more than 40 percent of the private dwellings on each phase to be occupied prior to contracts signed with Registered Providers for 50 percent of Affordable Housing dwellings in that phase.
- No more than 80 percent of the private dwellings to be occupied prior to contracts signed with Registered Providers for 100 percent of Affordable Housing dwellings in that phase.
- No future phase completions will be allowed until 100 percent of the previous phase affordable housing is delivered.
- Highway Improvements (on and off site)
- Bus stops and upgrading of footpaths as identified.
- The works at Essex Hall Roundabout, Station Way and Colne Bank Roundabout (shown on drawing numbers VN20059-711-B and VN20059-710-C) to be capped at £4,475,000 (index linked). In the event that the capital cost of the works exceeds £4,475,000, the developer is to work with Essex County Council to find additional funding to enable the works to proceed or identify an alternative scheme.
- Bus Strategy
- To pay bus subsidy to a bus operator to facilitate a bus route to run through the length of the primary street in instalments up to a maximum contribution of £330,000.
- The bus subsidy is subject to the bus route not being viable prior to any payment. Payments will cease in the event that the bus service becomes viable. Provisions will set out the frequency, timings and route the service will take.
- Developer to provide evidence to show £330,000 Index Linked has been spent on bus service. If less than any balance shall be utilised on sustainable transport initiatives agreed by the Council.
- Details to be subject to further discussion.
- Travel Plans and Travel Co-ordinator
- Developer to pay Local Planning Authority a total of £70,000 in equal instalments at the first occupation and the [xx]th occupation. The contribution is to be

used to implement the measures in the approval travel plans.

- Details to be subject to further discussion.
- To prepare and implement a Travel Plan.
- Land to facilitate footbridge of the A12
  - To procure that the land shown on drawing xx is set aside for 10 years after the completion of the 900<sup>th</sup> unit for the construction of a footbridge over the A12.
- Education
  - The school land is shown on drawing xx (both primary (including the potential provision for early years) and secondary shown separately).
    - Both school sites shall be set aside for a maximum of [ten years] from commencement of development in which time Essex County Council must serve written notice within seven years that either / both part of the land are required to mitigate the primary and secondary educational impacts of development.
    - Once the notice is served and serviced land is transferred for £1.
    - Essex County Council have a further [3 years] from the date of completion of the transfer to construct the relevant school otherwise the relevant land is transferred back to the developer.
    - A community plan to be submitted setting out the arrangement for sharing the sports facilities.
    - If the school site is returned to the Developer the Developer may apply for a change of use on this part of the site but serviced land will be reserve [xxha] for indoor sports provision for the scheme and offered to the Council for £1 or pay financial contribution.
    - The requirement for the land to be appropriately serviced (including noise mitigation) and trigger points for the transfer / delivery of the schools to be subject to further discussion with the Education Authority and the Developer.
    - To pay primary school contributions of £500,000 prior to the occupation of the 1,000th units and a further £500,000 prior to the occupation of the 1,150th unit
- Strategic Landscape Provision and Play Areas
  - The public realm shall be provided broadly in accordance with Landscape Framework Drawing with additional open space within the residential parcels.
  - The Developer will be able to either manage the open space via a suitable Management Company or may ask Colchester Borough Council or a 3<sup>rd</sup> party to adopt the land by paying a commuted maintenance sum of £40,000 per hectare. Colchester

Borough Council will not adopt incidental open space which is less than [0.02ha] in size.

- Sports pitches are to be laid out to an agreed specification and made available prior to [xxth unit]. Colchester Borough Council to be offered the sport pitches with a commuted sum of £87,700 per hectare. In the event Colchester Borough Council declines to adopt the sport pitches or the commuted sum offer is less than £87,700 per hectare a management company or other suitable organisation is to maintain them.
- Allotments are to be laid out to an agreed specification and made available prior to [xxth unit]. Colchester Borough Council to be offered the allotments with a commuted sum of £6,700 per hectare. In the event Colchester Borough Council declines to adopt the allotments or the commuted sum offer is less than £6,700 per hectare a management company or other suitable organisation is to maintain them.
- The developers' total obligation for the scheme with regard to equipped play area construction and their adoption is capped at £700,000. Colchester Borough Council to be offered the play areas. In the event that Colchester Borough Council declines to adopt the play areas a management company or other suitable organisation is to maintain them.
- The public realm is to be available to all.
- Community Centre
- By the 750<sup>th</sup> unit carry out a consultation with the local community to ascertain what type of building they would like within available parameters.
- By the 950<sup>th</sup> unit gain reserved matters consent, construct and handover a community facility with a maximum size of [1,000m<sup>2</sup>] and a maximum all in cost of [£1,495,000].
- Developer to provide evidence to show £1,495,000.00 Index Linked has been spent on community facility. If less then any balance shall be utilised on education or indoor sports facility as agreed by the Council.
- Employment and Training Plan
- Plaza Access and Management Plan
- Miscellaneous
- Provision within the neighbourhood centre for a doctor's surgery.
- Indexation will be applied to sums from the date of signing the S106 Agreement.
- Mechanism for review of viability (including the reasonable costs of Colchester Borough Council seeking independent advice).
- Pre-adoption management and maintenance scheme.

- Monitoring and Legal fees.

(iii) On completion of the Legal Agreement, the Head of Commercial Services be authorised to grant planning permission subject to the conditions and informatives outlined in the report and amendment sheet.