

**PLANNING COMMITTEE
28 FEBRUARY 2013**

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Nick Barlow*, Peter Chillingworth*,
John Elliott*, Cyril Liddy*, Jackie Maclean*,
Jon Manning, Nigel Offen* and Laura Sykes*

Substitute Members :- Councillor Mark Cable for Councillor Nigel Chapman
Councillor Barrie Cook for Councillor Helen Chuah
Councillor Michael Lilley for Councillor Stephen Ford
Councillor Marcus Harrington
for Councillor Sonia Lewis
Councillor Gerard Oxford for Councillor Philip Oxford

Also in Attendance :- Councillor Mary Blandon
Councillor Bill Frame
Councillor Will Quince
Councillor Lesley Scott-Boutell
Councillor Tim Young

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

- 100. 120965 Land and other property to the North of London Road and West of the A134 including The Chantry, The Chantry Lodge, Hillside and Nursery Site, Great Horkesley.**

Councillors Barlow (in respect of having met the applicants in his previous capacity as Portfolio Holder), Cable (in respect of being the Council's representative on the Dedham Vale and Stour Valley Project and a volunteer for the National Trust, Flatford), Chillingworth (in respect of his membership of CPRE Essex) and Offen (in respect of his membership of CPRE Essex) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the change of use and development of land to form 'The Stour Valley Visitor Centre at Horkesley Park'. This would comprise a country park; art and craft studios ('The Chantry'); public gardens; a central building complex which consist of an indoor display ring, a Suffolk Punch breeding centre, entrance building, shop and café. It would also include: a number of attractions: 'field to fork', 'farming through the ages', 'active learning', 'nature watch', and a retained greenhouse as a 'demonstration nursery and gardens', and energy centre. The application also included an energy centre, main and overflow car parks, service yard, highway improvements, ancillary works and infrastructure provision.

The Committee had before it a report in which all information was set out together with further information on the amendment sheet.

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.

The following officers attended to assist the Committee in its deliberations.

Vincent Pearce, Planning Services Manager
Sue Jackson, Principal Planning Officer
Andrew Tyrrell, Planning Manager
Karen Syrett, Spatial Policy Manager
Adam John, Landscape Planning Officer
Matthew Bradley, (Essex County Council Highways)
Martin Mason (Essex County Council Highways)

Jill Britton and Nancy McGrath of Britton McGrath Associates also attended.

Andrew Weavers, Monitoring Officer, addressed the Committee on issues of predetermination and confidentiality. Representations made by the Stour Valley Action Group included a Counsel's opinion expressing concerns about predetermination of the application and concerns regarding confidentiality of some of the documentation submitted by the applicant. The Council had obtained its own opinion on these issues.

In respect of predetermination, it was alleged that the statement made on the Council's website by the Planning Services Officer had pre-determined the application by indicating that the Planning Services recommendation would be favourable which would undermine the objectivity and reliability of the officer's report. The Monitoring Officer made clear that it was for the Planning Committee to determine the application and it needed to do so with an open mind and with no pre-determination. As the decision regarding the application was for the Committee, the officer's statement could not and would not have predetermined the application. No weight should be attached to the opinion expressed by the Planning Services Manager. In determining the application, the Committee needed to consider the officer's report, the merits of the application, relevant planning policies and the representations made to the committee and decide what weight to give to each.

In respect of confidentiality, the Monitoring Officer advised that the applicants had informed the Council that their business plan was commercially sensitive and exempt from access under the Freedom of Information Act. The Council was required to consider the information and apply the Act accordingly. The issue that arose was whether and/or on what basis the Committee was entitled to take into account confidential information in the course of determining the application in the light of its non-disclosure. The Council's barrister had advised that following two cases, the Committee could determine the application without breaching its duty to act fairly to all parties including the Applicant.

The Committee could therefore have regard to the confidential information and the advice received in respect of it because the Council could confirm that the Applicant submitted the documentation to it in confidence, that officers have received independent advice in respect of the documentation and that the officer's report reflects the gist of the information contained in the documentation and the

independent advice it received.

Karen Syrett, Spatial Policy Manager, addressed the Committee on the status of the National Planning Policy Framework (NPPF) and the Local Development Framework. Colchester remained in a strong position with a full suite of Local Plan documents. These consisted of the Core Strategy, Site Allocations and Development Policies Development Plan Documents which together constitute the Development Plan. The fact that these were adopted before the NPPF was of no relevance. The NPPF had been published in March 2012 and was a material planning consideration to be taken into account along with other such considerations. It was clear that development remained plan led, unless material considerations dictated otherwise.

Andrew Tyrell, Planning Manager, presented the main features of the application to the Committee.

Have Your Say

John Alexander, Nayland with Wissington Conservation Society, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The response from the Council's Planning Policy team indicated that the proposal was in breach of both national and local policies and that the development was not in accordance with the Development Plan. As the application should be decided in accordance with the Development Plan unless material considerations indicated otherwise, the Committee should start from a basis of refusal. The Planning Officer's recommendation relied on the economic benefits of the scheme, but the concerns about viability and the harm to the Dedham Vale outweighed any potential benefits. The Planning Officer's recommendation was based on a selective reading of a consultant's report. The Committee should uphold planning policy and refuse the application.

Will Pavry, Stour Valley Action Group, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The application would cause irrevocable harm to the Area of Outstanding Natural Beauty (AONB). It was not in accordance with the Development Plan and must therefore be refused. The deliverability and viability of the scheme was questioned, particularly at the maximum visitor numbers accepted by Britton McGrath. Visitor numbers and employment benefits from the scheme had also been overstated. The numbers of jobs likely to be generated were insignificant in the overall borough picture. Britton McGrath had alluded to a number of conditions that needed to be met if the scheme were to be viable including the display of Constable art work and the delivery of the Chinese Garden. None of these had been. Planning permission could only be granted if these conditions were met and they should not be relegated to the section 106 agreement. The application was not deliverable, unsustainable and contrary to planning policy.

David Green, Campaign for the Protection of Rural England (Essex), addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The proposed development was unsustainable and would damage the beauty and tranquillity of the Dedham Vale. The landscape could

be enjoyed from quiet country lanes and public footpaths. The importance of the landscape was recognised by its designation as an AONB. Since the previous application had been refused, the NPPF had been published but this was clear on the protection of AONBs. The heritage proposals were incompatible with local and national policies designed to protect the landscape and its quiet enjoyment. Development of appropriate scale and character, that enhanced landscape, supported the rural economy and opportunities for quiet enjoyment would be supported but the application failed on all counts and should be refused.

Robin Duthy addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The "pulling power" of an art gallery related directly to the fame of its holdings. Christchurch Museum had paintings by Constable, Gainsborough and Munnings available to view without charge, yet only attracted 60,000 visitors per annum. There was no evidence that the applicants had agreements in place for the display of works by Constable. Those artists whose works had been secured were relatively unknown and were "not even a footnote in art history." On the basis of those artists he would predict 5000 visitors per annum at best. To attract 25000 visitors per annum, the Chantry would need a collection independently valued at £20 million. Therefore this proposal was commercially unviable.

Chas Bazely addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. A Countryside Commission report on the Dedham Vale AONB stated that remaining areas of rural idyll were profoundly important. The main change from the previous application was the removal of buildings in the AONB. However, the 5 acre Chinese Garden, which would include walling, would be in the AONB. The Committee needed to consider whether a Chinese garden was needed in an area famous for its typically English landscape and if the art gallery was such an important element of the scheme why the applicant was still seeking to sell the Chantry after the application was filed. The Committee was being asked to agree the change of use with little clarity as to what use it might be put.

Roger Drury, Dedham Vale Society, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. A key reason for the refusal of the previous application was that the proposed use was unsuitable. This also applied to the current application. The application was contrary to the NPPF. The real environmental cost of the application was the 300,000 visitors and staff who would be reliant on car transport. The improved bus route was a fig leaf. The recommendation of approval was a consequence of the planning system being an engine for economic growth. However, development needed to be sustainable. The Localism Act was supposed to allow local people to shape their surroundings. The recommendation was overwhelmingly opposed by those it affected. It was a betrayal of all those who worked to put together the first class Local Development Framework

Parish Councillor Steve Clarke, Little Horkeley Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Horkeley Park overlooked Little Horkeley and if the

application were to be approved. Little Horkesley would suffer from noise and light pollution and increased traffic. The number of jobs and businesses in rural parts of the borough had increased significantly since 2003. The Local Development Framework supported small business in the rural economy. Horkesley Park could only damage trade in the town centre and have a detrimental impact on rural businesses. Horkesley Park offered an incompatible set of attractions.

Parish Councillor Matthew Pescott-Frost, Nayland with Wissington Parish Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The AONB was currently free for everyone to enjoy. By contrast, visitors would be charged to visit Horkesley Park and it would offer nothing of historical interest. There were concerns that the development would lead to increased congestion and car parking in Nayland. Visitors to Horkesley Park from Ipswich and east Suffolk would travel through Nayland and other villages in the Dedham Vale. Nayland already suffered severe congestion at peak school times. If only 10% of visitors passed through Nayland this would cause an extra 100 journeys through the village. Essex County Council and Suffolk County Council had not taken sufficient account of the impact of the development.

Dr Kate Charlton-Jones addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The proposal would cause irreparable harm to one of East Anglia's finest landscapes. The character of the AONB was a combination of buildings and landscape. It was not defined by a line on a map. The landscapes in Constable's paintings were still recognisable today as residents had actively protected the landscape. The Dedham Vale was enjoyed by so many without charge. The character of the area as a piece of rural England was at stake. Horkesley Park was not viable, not sustainable, not wanted and not needed.

Councillor Nigel Chapman, Chairman of the Joint Advisory Committee of the Dedham Vale Area of Outstanding Natural Beauty, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. AONBs had been set up by legislation in 1949 and enjoyed the same planning status as National Parks. There were only 35 nationally. The AONB was vulnerable to development. A Country Park was not a recognised form of landscape in the area and therefore if the application were to be approved, the AONB would lose some of its character. The Chinese Garden would not reflect local character and would require buildings. The concentration of visitors at the predicted levels would impact on the tranquillity and character of the Dedham Vale. The sustainability of the scheme was questioned, particularly in view of the increased cost of fuel. The Committee needed to consider whether the application meets the requirements of the Development Plan and how to secure the return of the site to agricultural use should the development fail.

Georgina Harding addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She expressed concern that when the public representations had been received, the applicants had met with officers and Britton McGrath to prepare a new viability report. The Committee report had been rushed onto the website at the last minute and without the contents page.

The report was confusing. The proposed section 106 agreement was being used to resolve outstanding matters such as the Art Strategy and the design of the Chinese garden. This would allow important decisions to be taken by the applicant and officers without member scrutiny.

Charles Aldous, Dedham Vale Society and Colne Stour Countryside Association, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee had to do more than weigh up the advantages and disadvantages of the proposed development. The proper approach in designated areas such as an AONB was that major development should be refused unless there were exceptional circumstances. There were no exceptional circumstances. Officers had claimed that the application did not constitute major development in the AONB but the proposed development had to be considered as an integral whole and therefore the test in paragraph 116 of the NPPF applied. Policy DP22 was also relevant. The proposed development also conflicted with the Stour Valley Partnership Management Plan.

Morwenna Sudbery, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. Concern was expressed about the impact on the tranquillity of the area and the impact of traffic. There were already a number of “rat runs” in the area, which had been overlooked by the Highways Authority.

Stephen Bunting, Bunting and Sons, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Bunting and Sons were an old family business that employed many local people. Many of the speeches made against the application were scare-mongering. The core development site was a redundant nursery. Full account had been taken of the reasons for the previous refusal. The application had been thoroughly and vigorously assessed and it had been concluded that there would be no significant adverse effect. There would be no draw on the public purse. Bunting and Sons were an experienced local firm who wanted to create a scheme that they could be proud of. There would be important economic benefits from the scheme.

Andy Sykes, Sykes Leisure Project, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Tourism Evaluation Report had identified that the tourism industry in Colchester was underperforming. Various strategies had been designed previously to promote Constable Country. There was a proven need for the development and Britton McGrath had confirmed that it had key elements required for a regional attraction. The projected visitor numbers of 316,000 per annum was realistic but Britton McGrath had agreed the development would be viable with reduced numbers. It would put Colchester on the tourism map.

Keith Brown, Visit East Anglia, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Visitors to the site would benefit tourism business and their suppliers. Tourism in East Anglia was of considerable value and generated significant employment. Rural tourism was growing in importance. There was a growing demand for quality and this development “ticked

all the boxes". It would be in easy reach of large number of consumers. Tourism in Colchester was not performing to its potential. The anticipated number of visitors was achievable. The business plan was robust and the scheme was viable and deliverable.

Lady Patricia Hopkins, Hopkins Architects, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The proposal re-used the site of redundant glasshouses. The aesthetic reflected traditional uses and its location. The modest timber framed buildings would improve the ambience of the area. The Chantry was suitable for its proposed use with the right curatorial expertise and appropriate lighting, security and atmosphere. Galleries were looking to loan out items from their reserve collections to galleries such as the Chantry.

Richard Stacey, RPS Group, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The amount of traffic that would be generated would be considerably less than from the previous application. The transport assessment report had been assessed by 3 highway authorities and none had objected on traffic flows and numbers. No significant weight should be attached to the Vectos report. A Travel Plan to enhance choice of modes of transport for visitors and employees was proposed. Most visitors would travel by car but this was not in itself contrary to policy. Visitors would mainly travel on the main roads and there would only be an imperceptible increase of traffic on local roads.

Professor Robert Tregay, LDA Design, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The statutory purpose of designations as an AONB was to conserve and enhance the natural beauty of the landscape and to improve the understanding of the appeal of the landscape. Landscape mitigation would ensure there was no impact on the AONB. Only the undeveloped part of the site was in the AONB. With the exception of garden walls the Chinese Garden would not constitute development within the AONB. The evidence did not support concerns about the impact of traffic and therefore the tranquillity of the area would remain. The scheme would improve access to the countryside in line with purpose of AONB designation.

Neil Mattinson, LDA Design, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Care had been taken to ensure the proposals took account of the sensitivity of the site. The Council's Landscape Officer had accepted the conclusions of the landscape assessment that the development would not affect the character of the countryside and the AONB. The landscape of the country park would be enhanced. There would be ecological benefits and increased bio-diversity. There was no evidence to support the assertions of harm. The setting of the church would not be affected.

Tony Collins, Collins and Coward, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The main concerns raised had been significant harm to the AONB and traffic. However, no evidence of harm had been produced. The Committee needed to look at facts when assessing the relevant policies. There was no harm to the landscape or

bio-diversity. Only one parish council within the borough objected. The Stour Valley Action Group which had been formed to object to the proposal had not produced evidence of harm and disregarded the benefits of the proposal. The argument that the development was a Trojan Horse for other development was a nonsense. The proposals had been subject to detailed scrutiny which had raised no objections so arguments based on fear of failure were not valid. A range of statutory consultees had not objected.

Joseph Greenhow, Joseph Greenhow Planning Ltd, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The fact that the proposal was a departure from the Development Plan was not unusual and was not a reason for refusal in itself. The Committee needed to consider the application on its merits. The NPPF, which was a material planning consideration, postdated the Development Plan and therefore greater weight should be accorded to it. The Development Plan had been found to be unduly restrictive at a recent appeal. The Committee needed to take account of paragraph 14 of the NPPF which stated the presumption in favour of sustainable development.

Emma Owen, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application and read extract from letters of support from Writtle College, a director of Natural England and the Suffolk Horse Society.

Parish Councillor Jean Dickinson, Myland Community Council, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The population of Myland would grow significantly as a consequence of further development. Residents, particularly children and the elderly, would need to be able to access rural pursuits and breathing space. Horkeley Park would provide this and would enrich the lives of the residents of North Colchester.

Robert Leng, Essex Chamber of Commerce, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Essex Chamber of Commerce supported the application as it would bring substantial investment, improve the tourism offer and create jobs. The development would create jobs from the outset. Local shops, restaurants and suppliers would all benefit. Colchester was punching below its weight in tourism and the development would increase the range of attractions in the borough. There would be a local employment plan to help ensure jobs went to local people. Whilst the number of jobs that would be created had been queried by officers, all employment was valuable.

Kate Bunting, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Whilst the proposal was supported by hundreds of local residents and other groups, the best informed people to judge the application were the Council's planning officers, who had recommended approval. Since 2009, the application had been redesigned on the basis of the previous refusal and the consultation responses. There was no reason to refuse the application and it was an excellent opportunity to create an attraction that would celebrate the local landscape. A robust mitigation strategy would be in place. The Chinese Garden would provide cultural benefits.

Visiting Councillors

Councillor Martin, attended and with the consent of the Chairman, addressed the Committee. Whilst the Planning Policy response relied on policy DP10 to oppose the application, this development would be of too large a scale for an urban area. The AONB was a misnomer as the landscape was the result of many generations of human activity. The application came from genuine country people of the type who had created the character of the AONB and the development would not upset that character. He congratulated planning officers for taking account of the planning needs of rural areas.

Councillor Arnold, attended and with the consent of the Chairman, addressed the Committee. There was a great deal in the proposal that was appropriate. However, the proposal would not be similar to a National Trust Centre. It was a commercial enterprise and would be business driven. The applicants would need to work the site hard. There was a fear that the projected visitor numbers would lead to conflict with and have adverse impact on existing uses of the area. It was accepted this was not the intention of Bunting and Sons. There was considerable doubt over the viability of the development. The need to ensure its viability could potentially lead to a desire to vary the attractions on offer and to further applications. If the applicants had engaged with the Local Plan process, site specific policies could have been put in place, but the applicants had shunned the process. If the application was approved it would send a message that the Local Plan and Development Plan were not sacrosanct.

In response to the Have Your Say! Comments and representations from visiting Councillors, officers responded in the following terms:-

Planning Policy

- The Council was committed to improving the tourism offer in the borough.
- It was the experience of officers that visitors offset the costs of overnight stays by reducing spend on attractions.
- The transport consultants, Vectos, had not been asked to respond to representations on their report.
- In terms of assessing demonstrable harm or impact the Committee may wish to consider what detail was available about the Chinese Garden, the impact of car parking, visitor numbers and the impact of special events.
- The Dedham Vale Management Plan required the Committee to consider the impact of new development on the Dedham Vale.
- The proposal not been put through the Local Plan process, even though there had been a long standing intention to redevelop the site.
- Good progress was being made towards the borough's projected job targets.
- Policy DP10 was relevant to this application.
- The Council had a good record of delivering country parks on the edge of urban areas.

Viability

- There was evidence that the scheme could be delivered in its entirety. Planning Officers were of the view that the scheme did not constitute major development in the AONB. Officers were satisfied that the scheme could be delivered and would be viable if all elements proceeded at the same time. The Chinese Garden could be delivered and officers confirmed that they had seen evidence from a range of private collectors indicating a willingness to lend item items to the applicants.
- Britton McGrath consultants outlined the process by which they had reported on the viability of the proposal. The key information on which they had based their reports was the level of capital investment and this had been “firmed up” as matters progressed. Each of the reports had been asked to consider different issues and were based on a growing amount of information. They reported objectively on the basis of their professional opinion.

Tranquillity

- Planning Officers were of the view that the scheme did not constitute major development in the AONB. If the Committee disagreed with this view, then the presumption in favour of sustainable development would not apply.
- Traffic assessments had looked at the main and local routes to the site and the predicted volume of traffic on these routes. The predicted levels were based on best practice. A number of routes had been analysed.
- The application proposed a number of attractions within the core development area. The operation of these attractions would need to be carefully controlled. The Council’s Environmental Control Team had assessed these attractions and had suggested measures to mitigate. Conditions would be imposed to restrict the increase in ambient noise levels. It was considered that these would not be greater than present levels,
- The site was in the least tranquil part of the AONB, as measured on the CPRE tranquillity map.
- There was no lighting proposed in the AONB.
- When considering the impact of the development, the Committee needed to take into account the topography of the site which was not flat,
- A significant management plan was proposed to cover landscaping and biodiversity issues.

Landscaping

- The landscape assessment submitted by the applicant had been subject to examination through field and desk study. The assessment complied with national guidelines and looked at visual and landscape impact.
- The screening element to the AONB constituted a line of poplars. The Council’s Arboricultural Officer was content with the viability of these trees in the short to medium term, allowing them to continue to act as a filter-screen whilst proposed planting matured.
- Hedging enclosing public footpaths could be designed to allow unimpeded views.

Traffic

- Essex County Council Highways Authority was a statutory consultee. It had assessed the application on highway safety and capacity. The assessment of the 2009 application had shown a substantial impact, but this application was smaller and likely traffic impact was decreased. Most traffic would be generated in off peak periods.
- There were no significant capacity issues in the area.
- The applicant had done as much as could be reasonably expected to encourage sustainable modes of travel.

Members of the Committee sought clarification as to whether and to what extent the application contravened planning policy. The Planning Services Manager confirmed that it did contravene some policies, but the test the Committee needed to apply was what harm resulted from any such contravention. As part of this consideration the Committee could examine issues such as sustainable travel, whether a rural site was a suitable site for an attraction of this scale and whether there was a characteristic of the site that made it an appropriate for this development. The Committee would also need to look at the impact on the AONB. The view of the Planning Officers was that the impact was positive. In looking at this issue the Committee would need to take account of environmental, economic and social factors and put its own weight on these factors.

When considering the application of planning policies, the Committee noted that the application supported some key policies but contravened others. A view was expressed that the application did not constitute sustainable development in accordance with the NPPF. Some members considered that without detailed information on viability the Committee could not be satisfied the application would meet the economic test. The application contravened sustainable development policies that sought to direct new development to urban areas. The application was also in contravention of policies ENV1 and DP10. However, Planning Officers stressed that the Committee needed to take account of the exceptional circumstances resulting from the application and the need for a countryside location for the site.

Concern was expressed that the applicants had not sought to engage with Local Plan process. However, Planning Officers confirmed that in their view this could not be sufficient grounds for a refusal of the application.

A view was expressed by some members which argued that the application would bring important social and economic benefits and did constitute sustainable development. In particular it was in line with policies to promote business and employment. Any increase in employment was to be welcomed and the proposals for apprenticeships were valuable.

Members of the Committee were of the view that viability was particularly crucial in respect of this application. If approved, this would permanently change the land use designation to D2. This would mean that were the development to fail, the site could effectively be treated as a brownfield site. Whilst it would be inappropriate for the Committee to speculate on future uses of the site, should the scheme not be

successful, the Committee needed to be satisfied that the project was viable. Therefore, members of the Committee expressed the view that the Committee needed access to all relevant information in order to assess viability. Some members felt that this had not been provided as the Committee did not have access to the business case or the detailed commercial information on which the assessments of viability had been made. Whilst the Britton McGrath reports had been made available, these had been heavily redacted.

In respect of viability, members of the Committee noted that the application proposed a diverse range of attractions, which may not attract visitors in the anticipated numbers. No evidence based on market research had been provided to demonstrate need. Some members expressed doubts about the viability of the proposals to develop the Chantry into an art gallery. If the Chantry were to be developed into an attraction of the appeal envisaged in the application, it would need to be able to safely house paintings worth approximately £25 million. The Committee had no evidence before it of how the Chantry could be made sufficiently secure and whether the costs of this had been properly built into the business plan. There was also concern that there was no detailed information about the Art Strategy or of the art that had been secured for display. There was considerable competition from other art based attractions in the area such as Christchurch Museum and Firstsite. Some members considered that insufficient information was before them in order for them to make an informed decision about the viability of this element of the scheme.

The cost, importance, the absence of details and viability of the Chinese Garden was also discussed. In response to members' concerns, Jill Britton, Britton McGrath Associates, confirmed that the Chinese Garden had always been part of the application. The scale of investment in the Garden became increasingly apparent. The delivery of the Chinese Garden was crucial to the viability of the development. However, members noted that it did not have information before it about the scale of investment required for the Chinese Garden or the planned return on investment.

A contrary view was expressed by some members of the Committee that the Committee should accept the conclusions of Britton McGrath, who had access to the relevant information, on the viability of the development.

In respect of the Committee's concerns about the availability of information on which to consider issues of viability, Planning Officers suggested that the Committee may wish to consider whether it should defer its consideration of the application to give the applicants an opportunity to respond to their concerns.

Concern was also expressed by some members that the application would have an adverse impact on the AONB. Harm would result from contravening policies designed to protect the AONB, which would leave the AONB vulnerable to further encroachment. It would also result from the enclosing of footpaths and the consequential loss of open vistas. The development was large scale and did not reflect the local landscape character. The increase in visitor numbers to the AONB that would be generated by the application could have an adverse impact on Flatford Mill and other sites at the heart of the AONB. Visitor numbers at these sites were carefully managed and this application with its emphasis on large visitor numbers was

not consistent with the approach taken by the National Trust to safeguard these sites.

In response Planning Officers indicated that proposals addressed the guidelines as set out within the Colchester Borough Landscape Character Assessment inasmuch as it could maintain cross valley views, subject to the sensitive design, and as it proposed the restoration of a woodland and pasture landscape on the valley sides. The development may also reduce visitor numbers on other sites in the AONB and therefore reduce the pressure on these sites. In response to queries from members about sound attenuation in the woodland strip, it was confirmed that trees planted out had no measurable impact on sound attenuation in themselves.

Concern was also expressed by some members about the impact on the Church. In response to these concerns, it was stressed to the Committee that English Heritage's concern was based on the harm caused by human activity, not though the impact of the development itself. It was the view of Planning Officers that the Church may benefit from increased human activity, but in any case concern about the impact of the Church were unlikely to be sufficient to warrant refusal of the scheme.

Some members were of the view that nearly all of the buildings associated with the development would not be in the AONB and the replacement of the existing redundant glasshouses would improve the site. The only building that would be in the AONB would be the walls in the Chinese Garden and these would be limited to the curtilage of the Chantry. Therefore the impact on the AONB was not significant.

In respect of highways issues, the Committee sought confirmation as to whether the Highway Authority had visited the site and whether it took account of satellite navigation routes when assessing travel impact. The Highways Authority confirmed that it had visited the site and that it used the Gravity Model to assess traffic impact. This was best practice. It did not take account of satellite navigation preferences. However, members of the Committee remained concerned that the application was in contravention of the Council's policies on sustainable travel and that there would be an increase of traffic on small country lanes. Members noted that the Travel Plan relied on a link road from the A12 that had not yet been completed and that traffic may use alternative routes through country roads or through the Dedham Vale.

Following the conclusion of the Committee debate, the Committee indicated that it was minded to refuse the application and directed that the detailed reasons for refusal based on the concerns they had indicated in the course of debate should be referred back to a future meeting of the Committee.

RESOLVED (TEN voted FOR and FOUR voted AGAINST) that:-

- (a) The Committee were minded to refuse the application on issues related to the following matters-
- The Committee were not satisfied that the viability of the scheme had been demonstrated and therefore the Committee was not able to give weight to the benefits identified in the scheme;

- The Committee were concerned by the large scale of the development and its impact, the lack of detail, its location in an unsustainable location and in a rural area and the amount of traffic that would be generated and the consequent adverse impact on the AONB.

(b) Detailed reasons for refusal to be submitted to a future meeting of the Committee for approval.