

PLANNING COMMITTEE 4 NOVEMBER 2010

Present :- Councillor Ray Gamble* (Chairman)
Councillor Helen Chuah* (Deputy Mayor)
Councillors John Elliott*, Andrew Ellis*, Stephen Ford,
Theresa Higgins*, Jackie Maclean*, Jon Manning*,
Philip Oxford* and Laura Sykes*

Substitute Members :- Councillor Terry Sutton
for Councillor Peter Chillingworth*
Councillor Nigel Offen for Councillor Helen Chuah*
Councillor Pauline Hazell for Councillor Ann Quarrie

Also in Attendance :- Councillor Lyn Barton
Councillor Nigel Chapman
Councillor Christopher Garnett
Councillor Martin Goss
Councillor Beverley Oxford
Councillor Gerard Oxford
Councillor Colin Sykes
Councillor Anne Turrell
Councillor Mary Blandon
Councillor Colin Sykes

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

Councillor Philip Oxford (in respect of having spoken on the matter at planning before) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

111. 101761 Land to the north of Electricity Sub Station, Severalls Lane, Colchester

The Committee considered an application for a new travellers site comprising a site office, twelve amenity blocks each comprising a lounge, kitchen and bathroom, a new access road from Severalls Lane East, internal roads and footpaths, site fencing, services, foul and surface water drainage, hard and soft landscaping and a play area. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

David Whybrow, Principal Planning Officer, attended to assist the Committee in its deliberations. He described the location, site layout, individual units, landscaping and access, and explained that the use of highway rights would enable the footpath to be built. He referred to planning policies relevant to this application including the Core Strategy and the East of England Plan, explaining that whilst the Plan had been revoked the evidence supporting the Plan remained as relevant guidance. He referred to policy SAH2 and to this site having been allocated for twelve pitches

thereby making adequate provision for gypsies and travellers in the borough. He referred to the responses to consultations. The Environmental Control team had recommended additional conditions. The Highways Authority had raised no objections but also recommended additional conditions. The Ramblers Association had welcomed the footpath. Following a revised flood risk assessment the Environment Agency had advised that they were withdrawing their earlier objections and recommended additional conditions. A further ecology study had been undertaken and Natural England and Essex Wildlife Trust had submitted further comments referred to on the Amendment Sheet. Mitigation measures were recommended for bats and birds, but no measures were proposed for otters and water voles. In excess of 1100 letters of objection had been received, many in a standard format but sixty-three individual letters had also been received and he made reference to the issues they raised.

The following public speakers addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application:-

Roger Smith, representing Fläkt Woods: The company had experienced occurrences of scrap metal being removed from their site, and of travellers parking their caravans within the Fläkt Woods site. They believed that travellers had used the bridle path to the south as a residential site causing damage. All these events occurred when travellers were in the immediate vicinity. They were of the view that these problems would re-occur and police presence would be required.

Richard Beauchamp, representing the Essex Branch of the Council for the Protection of Rural England (CPRE): The CPRE were concerned that following this application there would be pressure for further development which would encroach on land to the north of the A12 and further damage the visual amenity and wellbeing of the population in Essex.

Stewart St Clair Pearce asked if all of the Committee members had been present at the site visit. He referred to the flood risk assessment and was concerned that Salary Brook was blocked in three locations by large quantities of black bags, some containing human excrement. He did not believe it possible to undertake a flood risk assessment if part of the water course was blocked. He confirmed that he was in possession of a draft document Ex665952 which showed that he owned the land up to the road and this was the document that Essex County Council claimed did not exist. He was of the opinion that this was not a safe route for cyclists or walkers because traffic moved at high speeds along the road. In these circumstances he considered a cycleway a necessity.

Alan Edmond: He lived opposite the Rare Breeds Farm. He was concerned that no steps had been made to bring the two communities together prior to this development. He did not believe there had been any consultation with the local community nor had travellers had an opportunity to meet the community, which he believed would be best practice. He referred to the significant increase in the local population and was concerned that Fläkt Woods and other businesses and residents would all be affected. He was concerned that there were no shops or school places available nearby and that fear of crime remained an issue.

Ian Thompson lived locally and was concerned about this becoming an accident black spot by virtue of the road being narrow and travellers accessing the site in large vehicles. He did not believe that the situation regarding educational facilities had been addressed as the local school was already full. Neither did he believe that this was the most economic solution in the current economic climate. His view was that this proposal should not proceed and another site should be considered. He was of the opinion that the last consultation was done eight or nine years ago and a new consultation should now be carried out.

Roger Brown: He objected to the proposal on the grounds of the cost of providing brick and tile bungalows for a travellers' site. He did not believe this proposal would do anything to solve the migrant traveller problem in the area unless the Council proposed to extend the site in the future.

Jon Betts: His main objection was on the grounds of the number of residents living in the immediate area. At the time that the site had been selected there were very few residents nearby but since then the number had increased by 1000+ people. For this reason he considered it likely that the site would not be considered suitable today. Relevant circumstances had changed and the selection of this site should be reviewed. He also questioned the dates of the consultants' findings and suggested that if a consultant was appointed today there may be facts taken into account which would result in a different recommendation. Additionally he referred to Severalls Lane being a busy road which would become busier so there was a need for an adequate footway and cycle path for families and children.

The following public speakers addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application:-

Ronessa Knock, Co-Chair of the Trustees of Tendring and Colchester Minority Ethnic Partnership (TACMEP): The partnership was a voluntary organisation for the wellbeing of black and minority ethnic people; and support for human rights was fundamental to their work. She believed there were not enough pitches for gypsies and travellers in Colchester because there had been no permanent site since the closure of the site at the Hythe. The local authority had a legal duty to provide places. Occupiers of authorised traveller sites pay the same costs as house dwellers. There were costs relating to unauthorised encampments, such as evictions, police costs and the planning process. The lack of somewhere to live was detrimental to the health of travellers.

Daisy Lees: She had not been aware there would be a children's play area and considered the site would be a nice place to live. The gypsy and traveller culture has been in Essex for hundreds of years and was our largest minority group. Asking them to live in houses was an unsatisfactory situation because it did not recognise their culture and was contrary to the Human Rights Act 2010. Gypsies and travellers who live in their own community have their extended families and community around them which is of utmost importance and reinforces the gypsy and travellers' culture and should be protected.

Jan Plummer, Executive Board member of TACMEP: Gypsies and travellers had a right to a home, education, health and to express their cultural identity. Not having a permanent place to live was a denial of their rights. They could not access healthcare and other facilities and this was a contributory factor towards mental stress and deprivation, of which the highest rates across all communities occur in the traveller community. Fear of crime was an issue but there was no evidence to demonstrate a higher rate of criminality amongst the traveller communities. There is evidence that gypsies and travellers want to live alongside neighbours and that they were good neighbours to the house dwelling community. She believed a permanent site was a factor in increasing life choices and would save tax payers money.

Tim Oxton: He believed it was the local authority's moral duty to provide suitable sites of a quality such as this proposal. Failure to provide the site would condemn gypsies and travellers to unauthorised sites for many years. Many houses have been built in the vicinity of this site with between 700 to 1,000 residents living within 600 metres of the site. However, they all knew that a travellers' site was coming on this site and he considered it out of order for people to claim they did not know. Those letters of objection which were copies of leaflets or newsletters issued by local councillors did not merit consideration in proportion to their volume.

The following Ward Councillors attended and, with the consent of the Chairman, addressed the Committee:-

Councillor B.Oxford believed planning grounds for refusal were breaches of Policy TA2, no cycle route proposed; the site would remove this as an agricultural field; and lack of access to goods and services. The minimum width of a footpath and cycleway must be 3.4 metres. Mr St Clair Pearce owns the land to the kerbside and Essex County Council had not provided proof or evidence that they own the land, despite requests to see documentation. Essex County Council had treated residents with contempt. They know they do not own the land and have allowed total devastation along Severalls Lane by removing trees without notice. Severalls Lane was too dangerous a road to cycle along. Businesses have relocated here on the understanding that this land would not be developed at all. The council gave an assurance that they would be consulted. We ignore our premier business park at our peril. The council is supposed to listen to consultation even when it is not what it wants to hear. She queried why travellers were given priority over residents' families in respect of school places.

Councillor G.Oxford opposed the application for a number of reasons. He believed that human rights worked both ways, and referred to 5,000 people in the settled community being on the housing needs register and nothing was being done to help them. He also referred to the withdrawal of objections from three statutory consultees within the last forty-eight hours. Salary Brook was blocked but the Environmental Flood Risk Assessment on 15 October 2010 had failed to identify two blockages in various tributaries of Salary Brook. He questioned how a flow of water could be assessed when there were blockages and had assumed that it must have been a desktop survey. The proposal was contrary to policy TA2, Walking and Cycling, and DP17, Accessibility and Access. There had been an increase in the numbers of residents. Colchester was designated as a cycle town yet the Highway Authority did

not require a segregated cycleway and footway which he considered should be provided. Such a path would require a minimum 3.3 metre width. The no. 247 bus serves the area but there are no bus stops in proximity to the site. The business park, including two high profile tenants, was a short distance away. Crime and fear of crime was an issue, and he stated that the crime figures showed a 47% drop in crime in the Hythe area at the time the Hythe travellers' site closed.

Councillor Turrell referred to the changing nature of the area since the previous approval. Cuckoo Point had since been built and there was an increase in traffic movements. This was a dangerous road with speeding cars. This new exit onto the road would reduce safety yet further and pedestrians would be in danger. The new primary school had not solved the problem of a shortage of school places; it would need to be enlarged but still would not have sufficient places. The four primary schools in the area were over subscribed and parents living within the catchment areas were unable to get their children into their local school. There was a need to address shortages before the site was built. Various agencies had objected on the grounds of flooding; the land was clay and the flood risk would increase with a layer of concrete on top. She urged the committee to refuse the application on highways grounds. In the event that permission was approved, she requested two additional conditions, one to provide a 3.3 metre segregated path to satisfy planning policy and Sustrans, and another to prevent the keeping of horses and ponies on the site, only permitting two dogs and cats per pitch.

Councillor Chapman accepted the statement from planning policy and accepted Government advice in Circular 01/2006 to reduce the number of unauthorised encampments. However, there was a fundamental difference with this application related to its position in the green wedge between Colchester and villages to the north which he fights to maintain. The scale of this site is also of great concern to him. He believed the phrase "building and structures will not be unduly prominent in the countryside" suggested they would be prominent to some extent. The description sounded like a considerable development to him, akin to a full blown residential development not a caravan site.

Councillor Goss objected to the application on the grounds of noise, disturbance and nuisance, highway safety, traffic, health and safety, crime and fear of crime and job impacts. He referred to 10 years of data he had collected from various reports regarding travellers' sites and complaints in Harbour, Castle and Stanway Wards. Prior to 2006 in Harbour there were complaints of burning cars, camping on the official site, and rubbish outside the site. After 2006 there were no complaints in Harbour or Castle Wards. He believed that history showed that where there was a travellers' site an illegal encampment occurs on adjacent sites. He was also concerned that there was a great deal of open land which would eventually become housing.

The Planning Officer addressed each issue raised. He explained that there had been occurrences of unauthorised sites in the past but it was considered that the provision of a permanent site would strengthen the local authority's position and assist in reducing such unauthorised encampments.

In response to concerns regarding further development north of the A12 he explained that this specific site was included in the Site Allocations Development Plan Document in response to a need for such a site. He also referred to the chronology of the site which was set out in detail on the Amendment Sheet starting with the site selection process and the Cabinet's agreement to the site in 2004. It was therefore regarded as a special case. The site benefits from hedgerows and the proposal includes a planting scheme to provide further screening. This site was not a precedent for further development in the surrounding countryside which is protected by established policies.

In response to concerns regarding flooding he explained that the Environment Agency had originally objected to the development, but that response had been based on a flood risk assessment which had been based on out of date information. They had therefore been requested to re-assess their analysis of the potential for flooding on the site and following this further work they had confirmed that in their view this was a low risk flood zone. They had commented on the blockages in the ditches but they did not consider that they would alter the outcome of their flood risk assessment. The amended assessment satisfied their requirements with the addition of conditions as set out on the amendment sheet.

In response to concerns regarding highways issues he referred to the traffic speeds along this road but commented that the proposed sight splays were a mitigating safety feature which would be adequate to accommodate vehicles using the site. The provision of a footway would be a benefit and, whilst there would be no dedicated cycleway, it was considered appropriate for the footway to also be used by cycles bearing in mind that it was likely that users would only be going to and from this site.

In response to the issue regarding school places, it was considered that this site would generate a relatively small addition to the demand compared with the significant developments in the area. Any requirement for school places would have been considered through the LDF process. This proposal has been considered by a corporate development team at which time the education department had raised no objections. The proposal was below the threshold level for providing contributions towards educational facilities.

In response to concerns regarding crime and fear of crime, the planning officer confirmed that security for a local business could be a material planning consideration but the local authority would require tangible evidence that the proposal would be detrimental to that security. The local authority could not substantiate a suggestion that crime would increase as a result of this proposal. Various speakers had drawn parallels with the site at the Hythe and it was acknowledged that that site had been a source of serious problems. However, unlike the Hythe this site would be a managed site and on the basis that other managed sites had demonstrated that they could be run on a reasonable basis, such occurrences on this site were not anticipated. In respect of complaints regarding crime/anti-social behaviour from travellers, it was assumed that these related to unauthorised encampments.

In response to the land ownership issues raised, it was explained that highway rights over-ride whatever land ownership situation exists. The planning officer referred to

the revised recommendation on the Amendment Sheet in which an informative note would be included to draw the applicant's attention to the land ownership/control dispute. The dispute was a separate issue which was the responsibility of the developer to resolve to their satisfaction; it was not a matter for the planning authority to resolve.

In respect of earlier objections to the proposal by Natural England, reference was made to their response to a new ecology survey undertaken recently by Essex Ecology Services. The main findings of the report were set out on the Amendment Sheet. Natural England and Essex Wildlife Trust had both submitted clear assessments stating that they now had no objection to the proposed development. An additional condition was proposed.

A member of the Committee referred to planning policies which objectors considered were breached by the proposal, to the school admissions situation at the four local schools and to the requirement for a cycleway/footway to be provided to a minimum width of 3.3 metres, adding that there appeared to be a number of faults with the application and it should therefore be refused.

Other members commented that whilst this application was an emotive issue, there did not appear to be any new material planning matters which warranted a refusal. It was recognised that there were now more residential properties close to the site. However, proximity to residential developments had not been one of the criteria in the site selection process, nor was it a material planning consideration. The previous planning permission for the site was a public document freely available to anyone who was purchasing a nearby property and thus it is not a valid argument for refusal. Reference was made to the Regional Spatial Strategy having been revoked and to the subsequent current advice that individual authorities should examine their own evidence base to determine how many pitches they need to provide. The evidence base was in the Essex County Council gypsy assessment which indicated that Colchester needed to provide double the number of pitches legislated for and it was that assessment which had informed the Local Development Framework.

Members referred to the intention for this to be a managed site where residents would pay council tax, rent and have a tenancy agreement. Any breaches would lead to an occupant being evicted. Essex County Council had twelve managed sites in the county and none of them were the source of crime problems. The site at the Hythe had not been managed for many years. The Committee were aware of the Site Allocations Development Plan Document which included this site as a gypsy/traveller site. Whatever feelings people may have, there was a requirement for thirty pitches in Colchester. They considered that failure to accept this site could lead to further occurrences of unauthorised sites. The Committee were also aware that the council could issue a planning permission even if it could never be implemented by virtue of the outstanding highway issue over ownership/control, and this point had been confirmed.

The Committee had visited the site and some members considered the proximity of the site to the new developments to be exaggerated. There was also support for the view that the number of children requiring a school place would not be very high, and

there was also a possibility that school age children from this site may use denominational schools in the town. The Committee were very concerned at the speeds achieved along this stretch of road and were minded to submit a strong recommendation to the Highway Authority for a 30 mph speed restriction to be extended on both sides of the road to beyond the bend to the north of the site. There was also disappointment that there was no provision for a cycle path but a shared cycle/pedestrian path was requested in lieu.

In response to the Committee's comments, the planning officer referred to the site selection process and the previous approval being granted in 2007. It was recognised that there had been changes to policy which have been looked at in depth. The Environment Agency were now satisfied and Natural England and Essex Wildlife Trust had both been re-consulted on an up to date ecology report which had been done fairly and openly. All the formal consultees to the proposal have either not raised objections or withdrawn earlier objections which had been based on out of date material. In an effort to encourage cycling, it would be possible to request the provision of cycle parking within the site and it would also be possible for a shared use path to work satisfactorily, particularly in this specific case because it would only serve this site and would not be a heavily used route. Regarding the speed of traffic, it would be possible to request the Highway Authority to consider extending the 30 mph speed restriction, although it was considered that the proposed site splays have been designed to take account of speeds on this stretch of road.

The Monitoring Officer explained that the breaking of the Heads of Terms were outside the remit of this Committee. However, if the lessee did break the Heads of Terms, for example by failing to manage the site, that would amount to a breach of the lease and this council would be able to take suitable action against the lessee. The keeping of animals on the site would be a condition of the tenancy and was not a matter for planning conditions.

RESOLVED (ONE voted AGAINST) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet together with an additional condition to require the provision of cycle parking facilities within the site and an informative note to Essex County Council Highway Authority to request that serious consideration be given to extending the existing 30 mph speed restriction along Severalls Lane northwards beyond the site entrance and to include the bend north of the application site.