

# Planning Committee

## Thursday, 02 February 2023

**Attendees:** Councillor Nigel Chapman, Councillor Helen Chuah, Councillor Michael Lilley, Councillor Jackie Maclean, Councillor Sam McCarthy, Councillor Chris Pearson, Councillor Leigh Tate, Councillor Martyn Warnes

**Apologies:** Councillor Lyn Barton, Councillor Roger Mannion

**Substitutes:** Councillor Mike Hogg (for Councillor Lyn Barton), Councillor Robert Davidson (for Councillor Roger Mannion)

### 959 Site Visits

Councillors Lilley, Chapman, Davidson and McLean (as an observer) attended site visits on the 31 January 2023 for the following applications:

- 213086 Land South of Copford Village Hall, School Road, Copford, Colchester
- 222261 Hushwing Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP
- 222262 Hushwing Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP
- 222971 Land Adjacent to, 3 Highfield Drive, Colchester, CO3 3QA

### 960 Minutes of Previous Meeting

The Minutes of the meeting held on the 8 December 2022 were confirmed as a true record.

### 961 213086 Land South of Copford Village Hall, School Road, Copford, Colchester

**Councillor MacLean declared that she had a disclosable pecuniary interest in application 213086 and would not take part in the application or be in the room. It was noted that Councillor MacLean left the room prior to the commencement of the item.**

The Committee considered an application for a proposed rural exceptions site of seven homes (resubmission of 201984). The application was referred to the Planning Committee as it was considered expedient for the purposes of transparency, for this application to be considered in a public forum.

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

Eleanor Moss, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. The Committee heard that the proposal north of the

village hall was part of the ribbon development in Copford with access being taken off School Road. The Committee were shown that the site included a large amount of parking space and affordable homes on site. Members were asked to note that the proposal had a mix of affordable housing and open market housing and that the development would back onto open fields where a public right of way was located. The Principal Planning Officer outlined that the Copford Neighbourhood Plan had not yet been adopted and was currently in its draft stage so little weight could be given when reviewing the policies within the document however it was noted that the plan included provision for rural exception sites that were adjacent to the village's settlement boundary. This was noted alongside Colchester City Council's Local Plan and its associated policies on rural exception sites. Further evidence was provided through a Housing Needs Survey that had been carried out in 2020 which had informed the Copford Neighbourhood Plan. The Principal Planning Officer concluded that the benefits of the proposal outweighed the harm and that the officer's recommendation was for approval as set out in the report and the amendment sheet.

Matt Free addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that the Copford Neighbourhood Plan had yet to be adopted and that the application before the Committee did not benefit from the support of local residents. The proposal was noted as being outside the settlement boundary of the village and there were far more suitable sites for development. The speaker concluded by detailing that the housing needs survey was out of date and that the proposal failed to meet the rural exception site criteria.

Jeremy Harrall (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 before Members was on a rural exception site which included a mixed tenure of dwellings. It was noted that the Housing Needs Survey had been conducted by the Rural Community Council of Essex and showed that there was a need for 8 affordable homes 5 of which would be accommodated by this proposal. The speaker concluded by confirming that the proposal delivered generous garden space, was on a bus route and if approved could be delivered within the next 18 months.

At the request of the Chair the Principal Planning Officer responded to the points that were raised by the Have Your Say speakers. The Committee heard that the Neighbourhood Plan had not been subject to a referendum and that the application would be determined prior to the adoption but noted that it would be unreasonable for the Council to delay determination until the Neighbourhood Plan was adopted. It was noted that the Draft Neighbourhood Plan policies of SE1 and SE4B would not effect adopted Local Plan policy DM8, that the previously mentioned Housing Needs Survey which had been undertaken by the Rural Community Council of Essex and that 5 of the proposed dwellings would be for local residents as detailed in the Section 106 Agreement.

The Principal Planning Officer responded to questions from the Committee on issues that including: that the Section 106 Agreement would require a local connection for the identified dwellings which could include living or working in the parish for a considerable time and that there would be trigger points for uptake to include

neighbouring parishes as well. It was explained that the additional parking that was located on the site had been offered by the applicant through wider discussions with the Village Hall who would be able to utilise the excess spaces for parking for busy events. The Principal Planning Officer confirmed that the Housing Needs Survey did not have a timeline of when it needed to be repeated or when the evidence in it became out of date but it was noted that this was being used as part of the evidence base for the Neighbourhood Plan.

Members debated the application noting the boundary on the site and its relationship with the settlement boundary and confirmed with the Principal Planning Officer that if approved then a condition could be added to secure a footpath through the site to the one existing on the field behind the proposal.

Members continued to debate the application and noted the proposals design and the cascading of availability through the Section 106 Agreement and whether Stanway should be excluded and instead preference is given to other local villages in the immediate vicinity. The Committee concluded the debate by discussing the significance of Paragraph 78 of the National Planning Policy Framework (NPPF) and the need for homes in the authorities area.

It was proposed and seconded that the application be approved as detailed in the officer recommendation and amendment sheet with the additional conditions and amendments as follows:

- Additional Condition that requires the submission of a Scheme of PROW along the eastern side of the site to link with adjoining existing PROW.
- That a clause be inserted into the Section 106 Agreement concerning the application of a local lettings policy to cascade to adjoining local villages but not Stanway in the first instance.

*RESOLVED (UNANIMOUSLY)* that the application be approved subject to the conditions and informatives set out in the report and amendment sheet with the additional conditions as follows:

- Additional Condition that requires the submission of a Scheme of PROW along the eastern side of the site to link with adjoining existing PROW.
- That a clause be inserted into the Section 106 Agreement concerning the application of a local lettings policy to cascade to adjoining local villages but not Stanway in the first instance.

**962**

**222261 Hushwing Farm, Mount Bures Road, Wakes Colne, Colchester, CO6 2AP**

It was noted that Councillor MacLean re-joined the meeting after the completion of application 213086 but before the commencement of 222261.

The Committee considered an application for a new dwelling. The application was referred to the Planning Committee as it had been called in by Councillor Sunnucks on the basis that "this has been called in at the request of the Parish Council and the owners of a neighbouring property. Although the expansion of a rural business should

be supported there have to be serious questions about adding a dwelling to the site. The neighbours are complaining about noise, surface water run-off, human and animal liquid waste.”

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

Chris Harden, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. The Committee heard that the proposal was not dominant in the environment and was a 3-bedroom dwelling of a traditional scale with a mixture of fenestration. It was noted that the application had initially been made for a 5-bedroom dwelling but this had been reduced to the 3 bedroom proposal before the Committee. The Senior Planning Officer outlined that the access to the site had been reviewed by Essex Highways and noted that along Mount Bures Road there were a number of formal and informal passing places for vehicles to manoeuvre into and asked Members to note from the photographs on show the location of the Hay Barn. The Committee were informed that the principal of the proposal was acceptable in terms of the countryside location due to the essential needs of the business and as outlined in paragraph 80 of the NPPF and Local Plan Policy DM18. It was outlined that the essential need was for security of the premises and the number of high value horses on the site as well as to ensure the welfare of the horses on site. The Senior Planning Officer detailed that the long-standing business on site which had moved from the down the road and noted that the financial details which had been provided showed that the business was sustainable. The Case Officer asked the Committee to note that the size and scale of the proposal was modest but that additional landscaping would be conditioned to soften the development on the landscape. The Senior Planning Officer concluded by noting that construction times would be conditioned and that a unilateral undertaking and RAM's payment would be required prior to the permission being given.

Stephen Barr addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that as an arable field the use of land and scale was enormous and was a major development if you were living next to it. The speaker outlined that there had been a number of visits from the planning department on issues including the menage which was twice the size of what was applied for and was in the wrong place. The Committee heard that if approved the proposal would creep from the approved plans. It was noted that there were four other equestrian businesses in the area and that based on the decision of this application further proposals would come forward under the justification of DM14. The speaker concluded by asking the Council to address the issue of the caravans as well as the issue of waste and surface water drainage on site that had caused issues at Hammonds Farm and that this proposal would only make things worse.

Lisa Spence (Applicant) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the business had been started ten years prior with the financial records provided to the Council, with the site now employing 5 full time staff. The speaker summarised that the proposal was sited far enough away from existing neighbours to provide privacy and asked the Committee to note that the business benefitted from a five-star professional rating within the equestrian training standards and meant that

competitive and expensive horses were kept on site. It was noted that the size of the dwelling had been reduced and that additional measures of rainwater harvesting would be installed to reduce flooding issues. The Applicant concluded by explaining that they had cleared their ditches maintained them.

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 application was not major in the location and it was known that sites for equestrian use required a large amount of land. It was noted that any enforcement action was outside the remit of the Committee but it was not anticipated that the proposal would set a precedent as each application would be looked at on its own merits. It was noted that times had changed in terms of living on site as it would previously only be for foaling and that the caravans would only be used when the owners were on holiday, a condition had been added to improve the appearance of the caravans. The Senior Officer concluded by confirming that there were conditions on the surface water drainage and foul water arrangements which would be controlled by a modern treatment plant but noted that these would be tightly controlled via condition.

Members debated the application on the issues including: the use of the site under policy DM14 which allowed rural housing and conditions associated with this and whether it could be changed to any rural based business and not just equine to allow any change of circumstances in the future possibly for farming. Members noted the need for rural employment and workers on the site and whether the proposal needed to be a site of exceptional design quality.

Simon Cairns, Development Manager, informed the Committee that the dwelling and its association with the equestrian business would be sufficient to satisfy policy DM14 and would not need to be of exceptional design quality but did confirm that the condition could be amended to allow agricultural workers to inhabit the dwelling as equestrian workers.

Officers responded to questions raised by the Committee on issues including: the number of staff that would be working on the site in future if this and the following application were approved and that the proposal did not include the removal of the caravans as that would be looked at in the following application.

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

- Condition 3 is amended to include agricultural workers in addition to equestrian.

*RESOLVED (NINE votes FOR, ZERO AGAINST, with ONE ABSTENTION)* that the application be approved subject to the conditions and informatives set out in the report and amendment sheet with the amended condition as follows:

Condition 3 is amended to include agricultural workers in addition to Equestrian.

and Welfare facility building and Two Client and Student accommodation pods. The application was referred to the Planning Committee as it had been called in by Councillor Sunnucks on the basis that “this has been called in at the request of the Parish Council and the owners of a neighbouring property. Although the expansion of a rural business should be supported there have to be serious questions about adding a dwelling to the site. The neighbours are complaining about noise, surface water run-off, human and animal liquid waste.”

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

Chris Harden, Senior Planning Officer, presented the report and assisted the Committee in its deliberations. The Committee were shown where the proposed building and pods would be located on the site and asked the Committee to note the response from the Highway Authority which detailed the further evidence provided by the applicant on how the business had move from down the road so would not constitute an intensification that would negatively impact the road network. Furthermore, photos were shown how the access including visibility splays, and that the provision for parking and manoeuvring was adequate. The Committee heard that the Education and Welfare facility would be located near to the bund and was screened by an existing hay barn if viewed from the dwelling approved on the previous application. It was noted that the student pods were close to the boundary of the land but it was judged that they did not detract from the countryside and would not have a detrimental impact on the closest neighbour. The Senior Planning Officer continued by detailing that there had been no objection from the Council’s Environmental Health Services and that if there were statutory nuisances then these would be dealt with as they arose. The presentation was concluded by confirming that the caravans would not be used for permanent accommodation and that a condition had been included regarding foul and surface water.

Stephen Barr addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that the issues around the caravans needed to be cleared up and that they should be allowed to have continued use on the site. The speaker outlined that the thought of glamping pods on the site being approved was unfair and there had been no consideration of noise. The speaker concluded by drawing attention to the issues around drainage associated with the previous application and that the proposal would have a detrimental impact on their house and garden.

Lisa Spence (Applicant) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. The Committee heard that the education centre would allow for lectures to clients and staff to take place as the current facilities on site were insufficient. It was noted that concerns had been raised regarding the competitions and liveries yard and confirmed that this had provided additional profit for the business of £17,000. This part of the business provided experiences on site and services to pick up and drop off attendees from the Marks Tey Railway Station. The speaker outlined that the business had been using radio headsets to communicate and provide private tuition so that less noise was created on site and that they would be trialling equipment that was used by tri-athletes. The speaker confirmed that the original permission had been granted at appeal and that glamping pods on the site would provide on site accommodation.

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 surface water drainage for the dwelling were a long way from the boundary and noted that the accommodation pods would be positioned behind the bund and would not be adjacent to the existing buildings. The Senior Planning Officer outlined that if there were any issues regarding noise then this could be referred to the Council's Environmental Health Services. Furthermore it was confirmed that the site had been granted at appeal and the use of the site was limited by the number of daylight hours as there were no floodlights on the site. The Officer concluded by confirming that the application had authorised them to allow the removal of the caravans should the committee require it.

The Committee debated the application on the issues including the caravans being removed and whether introducing the glamping pods would allow a holiday lettings business to start up as there was concern that there needed to be safeguards on the residential amenity of the neighbours. The Committee debated the role of the caravans and their temporary status and questioned how many people could occupy the glamping pods.

The Senior Planning Officer responded to Members questions confirming that they could only accommodate 2 people at maximum and drew the Committee's attention to condition 6 in the recommendation that detailed how the pods could only be occupied for equestrian use and not for holiday / letting purposes.

The Committee continued to debate the application on the issues including: that it was welcomed that students to the venue would be travelling via public transport where possible, and that there was concern over the response raised by Mount Bures Parish Council. The Committee discussed their response and suggested that as soon as the permanent building had been built that the caravans should be removed. Members debated the possible removal of the caravans further and what conditions could be used as well as what the siting of the pods and their necessity for the business to flourish. A concern was raised by the Committee on whether a fencing business was operating on the site. Officers noted this but detailed that this was not within the remit of the Committee and if there were concerns regarding use of the land that it would be a matter for the Council's Planning Enforcement services.

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

- That prior to the first occupation of the Educational centre, the two mobile homes on site shall be removed.

*RESOLVED (UNANIMOUSLY)* that the application be approved subject to the conditions and informatives set out in the report with the additional condition as follows:

- That prior to the first occupation of the Educational Centre, the two mobile homes on site shall be removed.

**222971 Land Adjacent To, 3 Highfield Drive, Colchester, CO3 3QA**

The Committee considered an application for the creation of a three-bedroom detached house. The application was referred to the Planning Committee as it had been called in by Councillors Barton and Willetts.

Councillor Barton requested the application be referred to the Planning Committee in the event of a recommendation of refusal for the following reasons:

- The site has been controversial so in the interests of openness and fairness, it is appropriate for this application to be referred to the Planning Committee.
- The new application has taken on board the comments from the Planning Committee and the recently adopted Local Plan does indicate it meets all policy requirements.

Councillor Willetts requested that the application be referred to the Planning Committee in the event of a recommendation for approval, the reasons being as follows:

- The private drive is narrow and has no sight splay at its junction with the A1124 Lexden Road, and no remedial action is proposed as part of this application. The existing access is already a hazard for pedestrians passing by on Lexden Road, and further development at this unsuitable location will further exacerbate the dangers. This matter is neither addressed by ECC Highways policy nor by the City Council Planning Policy. Therefore in making a decision, the Planning Committee needs to take the safety issues pertaining to the access to the decision.
- The proposed site is very small and tightly constrained and the designated parking appears to extend beyond the curtilage of the development site so as to impede the safe flow of traffic to other houses in what is already a cramped geometry. Again, this is not directly covered by Colchester City Council (CCC) Planning Policy and needs determination by the Planning Committee.
- While each application must be determined solely on its merits, there is a history of refusal of applications and appeals on this site for broadly similar developments, and previous Planning Inspectors conclusions need to be carefully weighed for relevance by the Planning Committee in regard to this application.

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

Nadine Calder, Principal Planning Officer, presented the report and assisted the Committee in its deliberations. The Committee heard that the proposal was for a single detached dwelling located on a grass area which was shown as an area of white land on the Local Plan meaning that it did not have a purpose. The Committee were shown street scene images of what the proposal would look like and the site in its current form where a metal fence had been erected around the site. It was noted by the officer that the erection of this fence was disputed and that it is likely to require planning permission. The Principal Planning Officer detailed that the parking proposal would subdivide an existing garage and asked Members to consider the planning history of the site which included a range of proposals on the site, all of which had been refused permission by the Council and, where appealed, were dismissed by the



Planning Inspectorate. As part of all the recent applications the land in its current form was considered to make a positive contribution to the local area and since there has been no significant change in local or national policy to warrant a different conclusion. The Principal Planning Officer concluded by detailing that the main difference between this application and the last was the introduction of a feature wall and that if the Committee were minded to refuse the application they requested that consideration be given to a further reason for refusal due to the absence of a signed unilateral undertaking to secure developer contributions.

Richard Flower addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that over the past 12 years all applications put on the site had been refused and that development on the site would cause detrimental harm to the street scene creating a cramped development with a very small garden. The speaker outlined that this was a private road which was currently getting more traffic than had been planned for and noted that the applicant had not contributed to the upkeep of the road. The speaker concluded by outlining that there were many soothing words in the proposal but asked the Committee to refuse the proposal and consider what the implications of the principle of development would be if approved.

Michael Smith (Agent) addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. The Committee heard that the site had been reassessed against the Council's policies and that the proposal had provided a clear set of matters that should address previous issues whilst taking into account the context of the site. The Committee were asked to consider policy DM12 and noted that the front of the building would face onto the road and adjacent to the existing dwelling and would cause no loss of light. It was noted that there would be a smaller garden but that there would be controlled parking for the proposal in a highly sustainable location which was served by a multitude of busses in the area. The speaker concluded by detailing that the proposal had a high level of architectural quality and that the negative aspects had been addressed asking that the application be approved.

The Democratic Services Officer read out a statement from Councillor Lyn Barton as follows:

*"The applicant is a resident of Shrub End Ward and I am speaking in my capacity as her ward councillor.*

*This application has a chequered history but the last time it came to planning several members were inclined to approve it but gave a few recommendations. These suggestions have now been incorporated by the applicant and in the light of the newly approved local plan which favours such applications I see no reason not to approve. We visited the site and the piece of land in question is an overgrown unattractive site which does nothing to enhance the area. The proposed dwelling does, in my opinion, complete the line of houses currently in situ. It blends in nicely.*

*This is a private road and Highways have raised no objections to the entrance/ exit to Highfield Drive.*

*I would ask the committee to approve this application as from what I can see others of*

*a similar nature in Lexden have been approved. We have to be fair and consistent in our approach."*

Councillor Willetts addressed the Committee and detailed his concerns regarding the access road being of a single track nature and how it joined onto Lexden Road. It was noted that a previous policy had detailed that where there was a single track road then no more than 5 dwellings could be served by it. The Ward Member drew attention to the fact that there would be a similar application coming forward in the future in the area which was causing concern for residents. The Committee heard that the road was not the leafy lane that it was made out to be and that the safety implications of lack of visibility splays and cars reversing onto Lexden Road had raised concerns. The Committee heard that the decisions from the Planning Inspectorate had relevance to the proposal before them and asked the Committee to take these material considerations into account. Councillor Willetts concluded by noting the Council's previous refusals on the site and that there should be no further intensification on site or development.

At the request of the Chair the Principal Planning Officer responded to the points raised by the Have Your Say speakers. The Committee heard that policy DM17 in the Local Plan adopted in 2022 and the previous policy of DP15 were very similar which was significant to the decision as the Planning Inspector had put significant weight on these policies when making their previous decision. It was noted that the proposal was in a sustainable location and that the design of the proposal was acceptable, but these did not overcome the harm that would be caused by the development. The Officer outlined that the Planning Inspector had made it clear that no landscaping could improve the proposal and that just because the site was untidy that did not mean that it should be developed on as that would set a precedent for future developments. The Committee were cautioned that should they wish to refuse the application on highways matters this could be an issue as none of the previous applications had been refused on this basis and no objection had been received from the Highway Authority.

Members debated the application noting that the proposal was contentious and that the long history of the site coupled with the number of planning appeals did give significant weight to refusal. In response to a question from the Committee the Development Manager advised that a condition could be added to control the slab level that the dwelling should be built at however if this was agreed then it would need to be demonstrated that a material change had taken place to overcome the reasons cited by previous Planning Inspectorate decisions. It was further noted by the Principal Planning Officer that neglect of the site would not be a reasonable cause for approval.

The Committee continued to debate the application on the issues including: the NPPF and the relevant paragraphs that were detailed under its previous iterations when decisions were made, that the Council had approved other applications without adequate parking in the city centre, that the proposal was finely balanced, and that there would need to be significant clear cut reasons to overturn the previous decisions of the Council and Planning Inspectorate.

The Principal Planning Officer advised the Committee that material weight did need to

be applied to the Planning Inspectorate's previous decisions and that the NPPF had been updated since the previous application, but the relevant paragraph had been included in the new iteration just under a different number. The Development Manager advised the Committee that the NPPF had to be looked at as a whole and specific paragraphs could not be cherry picked or looked at in isolation. They detailed that it was always possible to find places to justify developments and commented that the Principal Planning Officer has detailed how the proposal related to the Local Plan Policies and that there was no material change in policies since the previous iteration of the application had been before the Committee.

Members concluded the debate by discussing the weight of the Local Plan and the Planning Inspectorate's previous decisions.

*RESOLVED (EIGHT votes FOR, ONE vote AGAINST, with ONE ABSTENTION)* that the application be refused for the reasons as set out in the report and with the additional reason for refusal as follows:

- That there was a lack of mechanism to secure developer contributions (Community, Parks and Recreation and RAMS).

**965            222779 71 Byron Avenue, Colchester, Essex, CO3 4HQ**

The Committee considered an application for a lawful development certificate for proposed 4 metre single storey rear extension. The application was referred to the Planning Committee as the applicant is a current Colchester City Councillor, representing Stanway Ward.

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

*RESOLVED (UNANIMOUSLY)* that the application be approved subject to the conditions and informatives set out in the report.

**966            222736 Nero Court, Napier Road, Colchester, CO2 7NR**

The Committee considered an application for an interpretation panel on a post (1m squared maximum size). The application was referred to the Planning Committee as the applicant is the Colchester and Ipswich Museums Service of Colchester City Council.

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

*RESOLVED (UNANIMOUSLY)* that the application be approved subject to the conditions and informatives set out in the report.

