

Planning Committee

Thursday, 10 December 2020

Attendees: Councillor Lyn Barton, Councillor Helen Chuah, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Derek Loveland, Councillor Jackie Maclean, Councillor Martyn Warnes
Apologies: Councillor Philip Oxford
Substitutes: Councillor Gerard Oxford (for Councillor Philip Oxford)

814 Declarations of Interest

Councillor Warnes (in respect of his membership of the Board of Colchester Commercial Holdings Ltd) declared a non pecuniary interest in item 7.2 pursuant to the provisions of rule 7(5) of the Meetings General Procedure Rules.

Councillor Jarvis (in respect of being a resident of Bakers Lane) declared a non-pecuniary interest in item 7.3 pursuant to the provisions of Meetings General Procedure Rule 7(5).

815 Minutes of the Previous Meeting

The minutes of the meeting held on 22 October 2020 were confirmed as a correct record.

816 201236 Hall Road, Copford

The Committee considered an Outline application for the erection of up to 49 houses and associated highway works.

The Committee had before it a report in which information about the application was set out.

The Committee members had been provided with videos and photographs of the site taken by the Principal Planning Officer to assist in their assessment of the impact of the proposals upon the locality and the suitability of the proposals for the site.

Mr Barney addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application.

Mr Barney, Chair of the Parish Council stated that the application had significant issues, was premature, speculative and not in keeping with CBC policies for rural East Copford.

There were a large number of issues with the urban design and it was clear that the proposals were contrary to Policy in design and place making.

There were unresolved highways issues, increased traffic flow would mean a high risk to pedestrians and cyclists and would therefore fail to meet policies D17 and DM21.

There was also the gradient of the road to consider. The survey carried out during

lockdown failed to recognise an increase in flow post lockdown and the HGV sewage trucks that use the road to access Copford sewage works. Figures only mention vehicle flow in one direction. No modelling of flow from the potential development had been undertaken and a July email from Colchester Borough Council was referenced. Highway standards specify 25 dwellings for a shared roadway but the development currently proposed 49 dwellings in addition to the current residents of Hall Road. Details of mitigation measures had been promised at the consultation but this was not mentioned in the report.

Privacy was a significant concern for existing residents for both Hall Road and London Road. DP1 (to protect residential amenity) had been ignored.

Contaminated land was an issue particularly in relation to gas as this is a known problem in nearby sites and no survey to check this had been carried out. The footpath proposed for children to the local Primary School via Pits Wood was not safe or suitable in bad weather and dark winter nights.

No acknowledgement had been made of RCCE Housing Needs Survey and the emerging Neighbourhood Development Plan produced in Spring 2020. On behalf of the Parish Council and residents he urged the Committee to decline the application and that this should not be considered until Local Plan Part 2 had been examined as the current plan is still in force with no Housing Allocation for Copford. The Outline application should not be considered until a detailed application is submitted that confirms or allays the concerns raised in our comments and in the comments of 128 other Copford residents.

Raymond Long addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application explaining that the land had been in the ownership of the Harrison family for many years and had been promoted for development through the Call for Sites and Draft Local Plan Consultation process since 2015. The site was identified in the Draft Local Plan Preferred Options published in September 2016 and again in the Publication Draft Local Plan. Therefore, the principle of development had been the subject to successive opportunities for public consultation and review.

Issues identified through the public consultation process relating to drainage, landscaping, heritage, archaeology and access had been fully investigated by specialist consultants at the landowners' expense and supporting information provided to the Council. He stressed that the site was viable and deliverable and would contribute to housing numbers in the Borough without adverse impacts on the community, ecology or the environment. The site was well located in terms of access to rail and bus services. Particular care had been taken to address concerns raised about the access to Hall Road and the proposed improvement works included widening of Hall Road from the minimum width of 3.8m to a more useable total width of 5.5m between London Road and the site access; provision of a priority junction and improvements to bus stops and public footpaths. The proposed access and associated improvement works had been considered and found to be acceptable by the Highway Authority.

The Pre-Application response received from the Council in December 2019 confirmed that subject to the development complying in full with all relevant matters set out in Policy SS4 of the Emerging Local Plan, the Council would not object to the principle of development on policy grounds.

Setting aside design and layout issues that were not to be decided as part of the application, the applicant had worked collaboratively with the Development Control Team to demonstrate compliance with Policy and other related issues. Fenn Wright had advised that the proposed scheme had generated interest from a number of high quality local residential developers. If the outline application were to be approved as recommended then subject to approval of reserved matters there would be every likelihood that the new development would deliver a range of sustainable and environmentally sound family homes that would integrate well with Copford village and its residents.

The Committee were urged to support the officers recommendation to approve.

Councillor Bentley attended and with the consent of the Chairman addressed the Committee speaking on behalf of the Parish Council and residents. Concerns were raised about traffic flows and the potential risk to the village should the development go ahead. This was a speculative application and was premature as Part 2 of the Local Plan had not yet been approved. No homes were allocated on this site in current plan and there are other brownfield sites allocated.. The proposal would lead to more traffic on to London Road and many large vehicles already use this to get down to Stanway. There was a need to think in future about how many traffic movements there would be and consider the impact on utilities and surface flooding. If more houses are built and connected to old utilities then consideration needs to be given to those facilities and the application should provide information on this. Whilst companies recognise their legal obligations, the treatment works was already at capacity. He asked the Committee to refuse the application.

Councillor Ellis attended and with the consent of the Chairman addressed the Committee relaying objections on behalf of the Parish Council with specific reference to road and traffic issues. Hall Road is used by Heavy Goods Vehicles en route to the sewage treatment works and the road width would prove a challenge if another large vehicle needed to pass. Pedestrian access was not good for those with pushchairs, a visual impairment or those using a wheelchair as to accommodate larger vehicles it had been proposed that verges may be used. The proposed development was not consistent with the ambitions of Planning Policy. He pointed out that the Inspector's letter had been received for Part 1 of the Local Plan and Part 2 was likely to be examined in the Spring. Approval would remove Copford residents' right to make representations on the inclusion of this site in Local Plan and he proposed that the application be deferred to allow that participation. It was suggested that an alternative site could be explored.

James Ryan, Principal Planning Officer, presented the application to the Committee.

The site was not allocated in the current adopted Local Plan but is an emerging allocation (SS4) and the balancing process on the weight to be given was explored fully in the report. It was not felt necessary to wait until the emerging plan had been examined, the scheme would not use other green sites and would contribute to the 5 year supply target. Approval being sought is for outline only and the site drawings were indicative only. If outline approval was given then design issues would be dealt

at the Reserved Matters stage.

The report outlined conditions such as ground gas as well as consultation responses; Anglian Water were working on infrastructure upgrades and the sewage plant had a permit and was able to take waste from 49 dwellings.

Access to the site via Hall Road was planned where there would be less impact on nature. Essex County Council had assessed the application and concluded that it would not cause severe harm to the Highway.

Martin Mason, Strategic Development Engineer, Essex County Council explained further that he had been involved in pre-application discussions that sought to achieve safe access from London Road to Hall Road. A scheme to improve Hall Road for this development had been achieved through a Highway carriageway of a width of 4.3 metres and a 1.2 metre wide footway on the Eastern side with the ability for vehicles to overrun if larger vehicles were to meet each other. 4.1 metres width was required for 2 cars to pass each other so 4.3 metres was acceptable. There were modest vehicle flows, numbers of large vehicles were low and there was not a large footfall on the footway. The judgement was that this provided safe access.

Members of the Committee had a number of concerns, commenting that the application was premature with unresolved issues and it was suggested that permission should not be given until there was an assurance that services would cope. It was also suggested that other sites could be looked at.

The width of the road for access was below recommended guidelines and did not adhere to the Essex Design Guide. Although this was not mandatory concern remained over access (in particular sharing that access with HGVs), potential parking issues/parking on verges, traffic flows and the width of the path/footway. If the access was used by larger vehicles this would be a safety issue for those using the pavements particularly residents with pushchairs and the 1.2 metre wide footway would not allow for a double buggy. The provisions in the Equality Act required a width of 1.547metres.

Members were disappointed that the number of planned units fell just below the 50 required for a contribution to the NHS and felt that money should be allocated for an NHS surgery.

The issue of badger setts was also raised, as well as the removal of trees and the impact on Air Quality especially given that the Council had signed up to a Climate Emergency.

Flooding was also a concern and it was pointed out that there was often surface flooding near the bus stop. Drainage down to the Roman River fed into an overloaded system sewage system and a stronger assurance that the system could cope with the development was needed from Anglian Water.

The Principal Planning Officer clarified that the site was higher topographically than the Roman River, the site was not at risk of fluvial flooding. A SUDS scheme had been proposed providing a technical solution that was not considered to cause

flooding harm. There were conditions outlining these in the application. Simon Cairns, Development Manager further explained that Anglian Water had confirmed that they had contingency plans in place and could deal with sewage effluent.

No badger setts had been found on site and once the reserved matters stage is reached a refreshed ecological report would be produced and mitigation would be considered at that point.

A number of sizeable contributions from the developer would be made but the NHS had not been included. The Development Manager explained further that contributions should be primarily spent on projects that are geographically proximate but that some smaller elements would be used for strategic borough wide projects. Should members wish to be involved in the detailed agreement of the destinations for spend under Heads of Terms this could be arranged.

The Principal Planning Officer stressed that prematurity was rarely a viable reason for refusal and the Development Manager clarified that under the NPFF the application was not of sufficient scale to disrupt the plan making process so it would not be an option to refuse on this ground alone.

The Development Manager reminded members that substantive planning reasons would be needed for any refusal.

A proposal to refuse the application was proposed and seconded, on the grounds that the proposed pavement width was in breach of the requirements of the Equality Act, potentially putting users at risk, and concerns on the shared access to the site. Given that a proposal contrary to the officer recommendation had been made the Chairman invoked the Deferral and Recommendation Overturn Procedure (DROP). The application was therefore deferred under the DROP procedure for a further report from officers on the proposed reasons for refusal and any risks or other implications arising from them.

RESOLVED that the application be deferred under the DROP procedure for a further report from officers on the risks or implications from refusing the application on the grounds on that the proposed pavement width was in breach of the requirements of the Equality Act, potentially putting users at risk, and concerns on the shared access to the site.

817 Colchester Northern Gateway, Land at Cuckoo Farm West, United Way, Colchester

The Committee considered an application for Redevelopment of the site to provide a Cinema (use class D2), active leisure units (D2), a hotel (C1), restaurants (A3) and/or hot food takeaways (A5), including drive through units, and/or a Public House (A4) in the alternative as well as flexible A3/A5 and/or D2 floorspace in the alternative, together with the provision of a single decked car park, a landscaped plaza with associated hard and soft landscaping, cycle parking, service laybys and drop off zones, the creation of a pedestrian and cycle link connecting United Way with Tower Lane and the installation/construction of balancing ponds, substation and

associated infrastructure.

The Committee had before it a report and amendment sheet in which detailed information about the application was set out.

Chris Goldsmith addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application explaining that the leisure facility would enhance the other significant investments made, and being made, at the Northern Gateway. An earlier proposal for this site in 2017 had led to Planning Permission being granted but the scheme had been updated to reflect changes in the leisure market.

Turnstone remained committed to the core aim of the original scheme to create a state-of-the-art leisure destination that would enhance Colchester's position as a regional hub. The design ethos remained consistent with the previous scheme but adapted, changes included:

- To reflect a changed market environment, a reduction in the number of restaurant units with flexibility to allow one to be a pub – a key local consultation request.
- Resulting from a commitment from Hollywood Bowl, an increase in the active leisure space by the introduction of an indoor bowling centre to sit alongside climbing and indoor golf.
- A reduction in the height but not the capacity of the cinema and the provision of a new foyer space that now fronts onto the central piazza.
- A reduction in the height of the car parking by the removal of a deck.
- Provision of two drive through restaurants to respond to roadside demand.
- An increase in the size of the hotel to further boost business and tourism, and finally
- The addition of an electric vehicle rapid charging station and a significant number of charging spaces in the main public car park.

The scheme would deliver significant investment in Colchester and generate 450 new jobs. It would result in high quality public realm and improved public transport and sustainable transport links. It would provide a mix of uses that complement Colchester Town Centre, increasing overall visitor numbers to the town. Despite COVID-19 restrictions extensive public consultation had been undertaken and public support received. Delivering this facility would provide a boost to the local economy, to people's mental health and the wellbeing of the town.

The Committee were urged to support the officer's recommendation to approve.

Chris Harden, Senior Planning Officer presented the report and assisted the Committee in its deliberations. If the application were supported it would, as before, go to the Secretary of State. It was considered that diverging from the original approval would be acceptable as there were material considerations.

A presentation including plans and photographs was made showing the layout of the development and comparisons between the original planned designs and the amended designs now proposed including changes to cinema and leisure elevations, planting scheme with enhanced landscaping arrangements, and parking provision (including 5% disabled parking). The design was contemporary, pleasing with a brick pattern now for the cinema elevations, and was appropriate for the Northern Gateway. Sequential tests and impact assessments had been undertaken and an independent consultant's analysis had confirmed that there would be no significant impact on the

Town Centre in terms of users.

A Legal Agreement would need to be drawn up and all amendments to conditions attached to the application were shown in detail in the papers.

Members were pleased with the proposal overall but asked for clarification on the following points:

- Were there enough electric car charging points for future use?
- Was there secure cycle parking provision?
- Were disabled parking bays wide/large enough?
- How would parking be managed on Match days at the Stadium
- Concerns about the impact on the Town Centre cinemas and businesses, and possible relocations from the Town Centre.
- Was there a traffic plan for the A12 and the roundabout given the introduction of drive through units?
- Concern over litter possibly being deposited in the surrounding area/roads (from drive throughs)
- Would the alternative drainage proposal be effective or should the tested method of intersector tanks with a maintenance schedule be a better way? There were also concerns over water pollution.

Members were assured that there was a Car Park Management Plan, and that parking was ticketed, disabled spaces complied with adopted parking standards and cycle parking was provided.

Martin Mason, Strategic Development Engineer, Essex County Council confirmed that a comprehensive traffic assessment had been undertaken as part of the application and that Highways England had assessed the impact on Junction 28 and it was not considered severe. A bus stop was also proposed on the site.

The Development Manager stated that the agreement would include a clause to prevent relocation of existing town centre businesses and clarified that in terms of the cinema it would attract a different geographic clientele to the Town Centre cinemas. The issue of litter from drive through establishments could be picked up in through the Legal Agreement.

The Senior Planning Officer explained officers would include a condition to ensure effective drainage and that the maintenance plan is vetted.

RESOLVED (UNANIMOUSLY that

(a) The application be referred to the Secretary of State in order that a decision can be made with regard to whether the application is to be called in for determination.

(b) Delegated **AUTHORITY to APPROVE** be granted subject to minor design detailing revisions and potential minor changes to conditions and the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within 6 months from the date of the Committee meeting.

In the event that the legal agreement is not signed within 6 months, to delegate authority to the Assistant Director Place and Client Services to refuse the application, or otherwise to be authorised to complete the agreement to provide the following:

(i) From liaison between the applicant company, ECC and officers, the s106 agreement would seek to achieve the Bus Service Level criteria as outlined in the

Highways Section of this report (or variation that is agreed by ECC and CBC):

- (ii) Public Transport - Contribution to fund bus improvements (current requested sum £543,000).
- (iii) Agreement with regard to target a number of job opportunities in leisure and hospitality on jobseekers/returners/college leavers in the Borough.
- (iv) Contribution to ensure litter from site does not impact upon amenity outside of the site.
- (v) A litter mitigation strategy for drive- through restaurant units.
- (vi) Inclusion of a clause in the S106 agreement whereby the developer would agree to sign a 'no poaching' agreement that would prevent relocations of Class A3 uses from the town centre to the application site.

On completion of the legal agreement, the Assistant Director be authorised to grant planning permission subject to the conditions outlined in the report together with an additional condition to secure effective drainage (with delegation to officers for minor amendments to conditions if required).

818 201130 West House Farm, Bakers Lane, Colchester

The Committee considered an application for the Change of use of land from agricultural and the erection of 3n holiday lodges

The Committee had before it a report in which information about the application was set out.

Robert Pomery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application reminding members of the appeal decision in relation to the previous proposals for the site, which was recommended for approval, but refused by Committee. The refusal had been subject to appeal. At the appeal, the Inspector had considered the site in two parts Parcel A and Parcel B and concluded that no harm arose from the three proposed holiday lodges on Parcel A. He pointed out that there could be no doubt from the Inspector's conclusions that development on Parcel A was found to be acceptable. Current proposals mirrored those considered by the Inspector on Parcel A and were the proposals to come before the Inspector again or another Inspector, the same conclusions would be reached. The Inspector had confirmed that the proposals for Parcel A are also compliant with Policy DP 10 of the Local Plan, which the Inspector states "supports small-scale visitor accommodation in rural areas even in areas which have poor accessibility."

It was difficult therefore to comprehend the call-in reasons given: "impact on wildlife, the proposal is on agricultural land which is not appropriate nor in an appropriate location for these proposals, this land is not earmarked for development in the current or emerging local plan, visual amenity and design, flood plan issues, the precedent this proposal would cause in this rural location and highways safety."

The objections to the current application raised matters that were dealt with conclusively in the appeal.

The proposals were compliant with relevant local and national planning policy.

Consultation with statutory consultees also reveals that there are no objections on the grounds of flooding, landscape, air quality, amenity of neighbours, highway safety and

access, ecology, trees, archaeology and contamination. These are the views of professionals in the relevant fields of expertise who have considered the proposals having regard to adopted standards and policies.

Members had had the benefit of assessment by an Inspector and were able to consider his findings and conclusions. The appeal decision is also a material consideration of significant weight. Mr Pomerey urged that the recommendation be approved.

Councillor Barber attended and with the consent of the Chairman addressed the Committee relaying some of the concerns he had raised when calling in the application. The application was in a rural area close to a flood plain and there was a risk of increased traffic causing a hazard on an already dangerous road. The proposed lodges were in the wrong position and not appropriate for the locality, they would have an impact on the countryside and would bring more harm to the local area than benefits. He reminded members that this was a different application to the one that went to appeal and urged the Committee to reject the proposal.

Chris Harden, Senior Planning Officer presented the report and assisted the Committee in its deliberations. A presentation including plans and photographs was made. The site was not in the Flood Zone and a condition had been included to ensure the lodges were at an appropriate level. There was an alternative access available for emergency use and for the main access vegetation would be removed to allow visual splay. Other vegetation removal was planned on the site but there would be replanting. The proposal was a moderate development and deemed to fit in with the environment and would support the rural economy. The Highways Authority found it acceptable.

Some members raised issues as to whether this was appropriate in a rural setting where there was a narrow country lane with no shops or public transport, what effect the change of use from agriculture might have in terms of future development of the area and whether this would result in losing rural unspoilt parts of Colchester. There were concerns around the road: it frequently flooded, there was overgrown vegetation that inhibits visibility, and it would be dangerous particularly for visitors who do not know the road. Cycling and walking would be difficult.

Martin Mason, Strategic Development Engineer, Essex County Council confirmed that the speed limit near the site was 30 mph, but it then moves into derestricted. Visibility splays had been dealt with by means of a condition.

Screening of the site and replanting were considered important and members asked how long the lets of the units would be. The Senior Planning Officer explained that screening to the neighbouring property would be provided. There was no desire to undermine the rural character and a condition would ensure an appropriate wooden access and egress sign. Another condition determined the length of stay for visitors as not exceeding 28 days in any 90-day period.

Members noted that this was a small-scale development which would support the rural economy as the Inspector had concluded. It was noted that the Highways Authority were satisfied and there were no landscaping issues.

RESOLVED (FIVE voted FOR, THREE voted AGAINST, ONE ABSTAINED from voting) That the application be approved subject to the conditions contained in the report with DELEGATED AUTHORITY being given to amend the pre-commencement conditions as necessary in accordance with the Town and Country Planning (pre-Commencement conditions) Regulations 2018).

819 Variation to Section 106 Agreement – Hythe Mills

The Committee had before it a report in which information about the variation requested was set out.

Jane Thompson, Project Officer (Transport and Sustainability) explained that changes were needed to the agreement to now be less specific to ensure funds would be spent on relevant projects. The accommodation manager for Hythe Mills had been involved looking at local area sustainable travel improvements.

Members were all keen to ensure that the funding would in the main be used for local projects such as the bus infrastructure and were reassured that this would be the case and noted there were already a number of local projects drawn up.

RESOLVED (UNANIMOUS) that the proposed deed of variation be endorsed

820 Temporary Changes to Planning Scheme of Delegation

The Committee considered a report by the Assistant Director, Place and Client Services proposing an extension to the temporary changes to the scheme of delegation and giving details of the applications which had been determined in accordance with the revised scheme of delegation agreed at the Committee's meeting on 18 June 2020.

Karen Syrett, Planning and Housing Manager, presented the report and explained that the interim arrangements for the consideration of planning applications and changes to the scheme of delegation had worked well. However, it was necessary to extend the changes to the scheme of delegation for another six months as circumstances did not allow for a return to physical meetings at this stage. Some concern was expressed about the fact that applications were being determined without full consideration by Committee and that ward councillors were not always made aware of applications being determined. However, it was explained that applications were determined following consideration by the Chair and group spokespersons, and that the Chair and Group Spokes could notify ward councillors, if they considered it necessary.

RESOLVED (UNANIMOUS) that

- (i) An extension to the revised scheme of delegation for a period of approximately 6 months be agreed
- (ii) The applications listed in the Assistant Director's report which had been determined under the emergency delegation be noted.

