

# Planning Committee

Thursday, 30 May 2019

**Attendees:** Councillor Lyn Barton, Councillor Pauline Hazell, Councillor Brian Jarvis, Councillor Cyril Liddy, Councillor Andrea Luxford Vaughan, Councillor Jackie Maclean, Councillor Martyn Warnes  
**Substitutes:** Councillor Christopher Arnold (for Councillor Andrew Ellis), Councillor Gerard Oxford (for Councillor Philip Oxford)  
**Also Present:**

## **696 Site Visits**

Councillors Arnold, Barton, Hazell Jarvis, Liddy, Luxford Vaughan and Maclean attended the site visits.

## **697 Minutes of 4 April 2019**

The minutes of the meeting held on 4 April 2019 were confirmed as a correct record.

## **698 182220 Fiveways Fruit Farm, Heath Road, Stanway, Colchester**

**Councillor Liddy (by reason of his directorship of Colchester Archaeological Trust) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a part detailed/part outline planning application for up to 420 residential units, with associated access, parking, servicing, open space and amenity space, landscaping, and utilities (details for means of vehicular access to the site only) at Fiveways Fruit Farm, Heath Road, Stanway, Colchester. The application had been referred to the Committee because it constituted a major development, a Section 106 legal agreement was required and objections had been received.

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

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Sue Jackson, Planning Project Officer, presented the report and, together with Martin Mason, Essex County Council Strategic Development Engineer and Simon Cairns,

Development Manager, assisted the Committee in its deliberations.

Jeremy Hagon addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He explained that he was a local Stanway worker and resident and objected to the application. He referred to the level of development in Stanway over recent years which had resulted in increases in traffic and pollution, lack of school places, delays for GP appointments and the inability of the A12 to cope and the need for improvements to road junctions, particularly at Warren Lane and A12 junction 26. He understood that Section 106 funding from the development was intended to be directed to the Warren Lane/ Maldon Road junction but precise sums had yet to be confirmed. He also referred to Highways England comments on impact on the strategic road network, proposed conditions on the application and the requirement for a scheme of improvements to the A12 junction 26 to be agreed prior to occupation / beneficial use of the development. He also referred to the comments of the NHS Clinical Commissioning Group in relation to the impact on services and GP practices in the vicinity. He was of the view additional GP practices were a necessity along with additional investment in public access defibrillators.

Kevin Coleman addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He responded to matters raised by objectors to the application and acknowledged concerns expressed about the extent of growth in Stanway generally. He pointed out that the site was allocated for housing in the Council's Adopted Local Plan and formed part of the Council's Strategy Housing Land Supply. He considered the site was not being over-developed, important hedgerows were being retained, it provided open space in excess of the Council's 10% policy and the proposed density was relatively low. Concerns regarding infrastructure were also acknowledged, he explained that the application would deliver community facilities, including a contribution towards the NHS, local schools, affordable housing, a community building contribution and highways improvements, in particular, the missing link for traffic to access the Stanway bypass as set out in the Stanway Southern Sites Access Brief and improvements to the roundabout capacity with safe walking and safe cycling facilities. The scheme was also open space policy compliant. He confirmed that no occupation of houses would be permitted until improvement works to the A12 junction 26 had been undertaken and measures to increase capacity on other local roundabouts had been identified which could be delivered or funding provided to Essex County Council, with an appropriate contribution also being made to the Warren Lane / Maldon Road junction.

The Chairman explained that the amendment sheet included the written submissions made by Councillors Scott-Boutell and Dundas, neither of whom were available to attend the meeting in person, he also read out an additional submission from Councillor Dundas.

The Planning Project Officer confirmed that the highway improvements to the A12

junction were required to be implemented prior to the occupation of the housing and the improvements to the London Road/Stanway Western Bypass junction and the contribution to the Warren Lane junction were to be agreed by the Highway Authority. In terms of the NHS contribution, the Health Authority had identified various health services which residents in the neighbourhood were able to access and the applicant had agreed to pay the required contribution.

The Strategic Development Engineer confirmed that lengthy negotiations had taken place with the applicant in relation to the design of the junction at Fiveways in order to simplify the layout, improve capacity and include pedestrian, cycling and crossing facilities.

Members of the Committee sought further clarification on the accident records for the junctions, the details of the proposals for the improvement and implementation of the London Road and Warren Lane junctions and, given the scale of development already in place in the Stanway area, details of the timeframe for implementing the improvements to the A12 junction. Assurances were sought regarding the junction designs from a safety perspective and, despite significant contributions already having been agreed, the lack of progress with the community facility was regretted. It was considered the residents of Stanway needed to see improvements delivered on the ground to match the scale of residential development already in place.

The Planning Project Officer explained that it was only possible to mitigate the issues which related to the development itself and, as such, it was not possible to mitigate existing problems. She was aware that proposals had been drawn up for Phase 1 of the community facility, with contributions from this development comprising Phase 2 of the building. She anticipated an application for the new school to serve the Lakelands development and the wider Stanway area would be submitted imminently and provision had also been made for a Country Park. Agreement of the contribution for the Warren Lane junction needed to be made by the Highway Authority to enable the Section 106 Agreement to be finalised, at which time the Planning Permission could be agreed and she explained that the payment of the highway contributions would be before the occupation of the 50th dwelling.

The Strategic Development Engineer explained that a substantial package of improvements had been planned for the A12 junction which were requirements of several planning applications in the area and the delivery of the improvements would be commenced prior to the occupation of the current application if not already delivered previously. He went on to explain that the Highway Authority had acknowledged capacity issues at the Warren Lane junction, together with an accident record and a feasibility study was being carried out to work out what improvements could be delivered, the outcome of which was likely to be ready in the forthcoming few weeks. This would enable an appropriate contribution to be negotiated in respect of the current application, although he confirmed that the mitigation required would not be substantial. He also

confirmed awareness of capacity issues at the London Road junction, together with complaints regarding lack of crossing facilities and he had therefore secured contributions from several developments towards the necessary improvement works.

The Development Manager confirmed that discussions were proceeding with a view to a planning application being submitted for a community centre and it was planned that community and councillor engagement would take place in the summer of 2019 to determine the exact form of facility is appropriate and he confirmed that funds were already available for the provision of this building, with additional funding from the current application to provide for a larger and more comprehensive facility. He therefore could see no reason why the facility would not be delivered.

Members of the Committee also questioned whether the traffic survey was sufficiently current to be valid and sought clarification in relation to the timescale for the signing of the Section 106 Agreement. In addition clarification was sought in relation to the Council's policy on the percentage of Affordable Housing to be delivered, the breakdown of tenures intended to be delivered within the current development and whether any need assessment had been made; whether the retention of the tree line boundary along Heath Road would be retained, given the Landscape Officer's recommendation against removal and the need for all future provision of bus stops to be in the form of lay-bys to improve traffic flow, to maximise the use of the road network and to reduce pollution.

The Planning Project Officer confirmed that the existing Affordable Housing requirement was for 20%, whilst in the emerging Local Plan this had been increased to 30%. She went on to explain that it would be at the time of the Reserved Matters application that it would be possible to clarify the precise Affordable Housing mix across the site, which would be in proportion to the private housing mix planned. Whilst confirming that there was flexibility for the Council to stipulate a certain size or type of Affordable Housing provision, she also confirmed that, across the board, the whole range of housing sizes was needed within the Borough. She confirmed that the proposal sought to retain the trees along the boundary of the properties on the west side of Heath Road and at the Reserved Matters stage it would be necessary to ensure that the privacy of existing residents was retained. She further confirmed that, whilst the majority of the protected hedgerow would be retained, certain openings could be made within it, including ones for the new access points. She confirmed that the spine road would be a bus route but she was not aware that lay-bys had been provided for.

The Strategic Development Engineer confirmed that appropriate growth rates had been applied to the 2016 traffic survey results to bring them up to date and that a period of six months was available for the signing of the Section 106 Agreement. He explained that the precise design of the spine road would come forward at the time of the Reserved Matters planning application and also indicated that the County Council policy did not favour lay-bys for bus stops on the grounds of difficulty for buses to return to the flow of traffic.

The Development Manager acknowledged the comments in relation to traffic flow and reduction to levels of pollution but explained that these details were not part of the current outline application.

*RESOLVED* (SIX voted FOR, TWO voted AGAINST and ONE ABSTAINED) that –

(i) The Assistant Director Policy and Corporate be authorised to approve the planning application subject to the conditions set out in the report and the amendment sheet and with authority to make changes to the wording of those conditions, as necessary, and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990 within six months from the date of the Committee meeting, to provide for the following:

- Archaeology a contribution of £16,810 (£4000 for on-site interpretation £12,810 display any finds);
- Open Space Sport and Recreation off site contribution of £275,000, onsite provision of Padel Tennis facility (or other agreed facility), a LEAP and 2.83 hectares of Public Open Space (commuted sums if Colchester Borough Council manages the facilities/open space or alternatively an Open Space Management Plan to be submitted and approved);
- NHS Contribution of £152,352;
- Education contribution to be agreed by the Executive Director Policy and Corporate in consultation with Essex County Council;
- Community facilities contribution of £680,000 towards the extension phase 2 of the Western Approaches community building;
- Affordable Housing 20% to be provided in accordance with policy;
- A RAMS payment of £122.30 per dwelling
- A financial contribution, to be agreed by the Executive Director Policy and Corporate, sufficient to secure a scheme of improvements to A12 junction 26 (the Eight Ash Green junction), similar in form to that shown in outline on Cannon Consulting Engineers Drawing number F/171 rev C dated 24th May 2017, including both the elements labelled ‘committed’ and those labelled ‘proposed’. This contribution will not be required if these works have been commenced to the satisfaction of the Local Planning and Highway Authorities, in consultation with Highways England prior to the occupation of the first residential unit;
- A £25,000 index linked contribution (plus 2% of the contribution value or no more than £2,000 as a monitoring fee) towards a possible future improvement at the London Road/Stanway Western Bypass roundabout to be paid prior to the occupation of the 50th dwelling;
- An index linked contribution (plus 2% of the contribution value or no more than £2,000 as a monitoring fee) towards a possible future improvement at the B1022/Warren Lane junction (details shall be agreed with the Local Planning Authority prior to commencement of the development) to be paid prior to the occupation of the 50th dwelling.

(ii) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application or otherwise be authorised to complete the agreement.

**699 190424 Land at East Bay Mill, 19 East Bay, Colchester**

**Councillor Crow (by reason of him residing off East Street, near to the site) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a planning application and listed building consent for the construction of 20 residential units together with parking, landscaping and associated works, including refurbishment of the existing Grade II Listed Granary Barn at land at East Bay Mill, 19 East Bay, Colchester. The application had been referred to the Committee because it had been called in by Councillor Crow and because it constituted major development where a Section 106 legal agreement was required and also because objections had been received.

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

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Alistair Day, Planning Specialists Manager, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Nick Hardaker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the planning application. He explained that he lived at East Bay and referred to a previous pre-application proposal which was similar to the current application but provided for 29 parking spaces. He referred to the parking standards and considered the proposal needed to provide 45 spaces in order to comply with this guidance, whilst the scheme proposed a total of 26 spaces. He also referred to the actual parking provision at other developments in the locality and asked why the parking proposals had been considered acceptable, given the considerable reduction in spaces on the grounds of the site's accessibility. He questioned the likelihood of prospective home owners making the necessary lifestyle change to limit car ownership to one per dwelling and considered it necessary to ensure the properties were marketed with this proviso and for a legal covenant to be put in place to regulate the car ownership numbers. He also referred to the access road safety audit which had acknowledged a lack of forward visibility and a narrowing of the access road to 3.2 metres in the vicinity of the listed buildings which he considered would be insufficient for a fire service appliance and compromised the safety of future residents.

John Burton, on behalf of the Colchester Civic Society addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application for listed building consent. He welcomed the work undertaken by the applicants to improve the scheme, however he considered the basic concept of the scheme was flawed. He referred to the planning officers view that the benefits of the scheme significantly outweighed the adverse impact. He acknowledged the current poor presentation of the site and that the listed building required restoration, however he was of the view the application should be refused and an alternative scheme be encouraged which would deliver more of a village character development. He did not consider the three storey houses proposed adequately reflected the character of the surrounding area and felt a mix of building heights would be more in keeping with the landscape and historic setting. He also expressed concern about the dominant nature of parked cars as proposed adjacent to a national cycle route and pedestrian pathway. He welcomed the use of the mill building so that its historic value could be appreciated and its potential as a tourist attraction could be enhanced. He referred to the need for owners of listed buildings to keep them in good repair and he did not consider the proposal would enhance the conservation area and was concerned that the restoration of mill building would become lost by the massing of the site.

Richard Quelch addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the site had been vacant for a significant period of time, it had suffered from anti-social problems, the derelict grade 2 listed granary building had suffered fire damage in 2005 and needed immediate restoration. He explained that the current proposal had been formulated to deliver a housing development, whilst restoring the granary building, retaining important trees, enhancing ecological value, providing an attractive frontage and improvements to the river wall, protecting surrounding residential amenity, improving the existing road through the site and creating an improved junction with East Street. Pre-application discussions had taken place and engagement with local residents had been undertaken in the form of a public exhibition as well as an engagement event for ward councillors. He explained that the proposal was for 20 dwellings whilst the site had been allocated in the emerging Local Plan for 22 dwellings. He acknowledged no objections had been raised by the Highway Authority, the Environment Agency and Historic England and welcomed the recommendation for approval from the planning officer. He explained that the parking provision had taken into account the site's proximity to Colchester town centre, the town railway station and access to local bus services. Given the site's location he considered prospective residents were more likely to use public transport or to walk whilst an assessment of current car ownership in Castle ward had been undertaken.

Councillor Crow attended and, with the consent of the Chairman, addressed the Committee. He explained that he was representing residents of East Street and East Bay who were objecting to the development. He explained that residents welcomed the

restoration of the granary barn but there were concerns about the proposed scheme in its current form. The key concern was in relation to parking which was considered to be inadequate. The proposal was for 1.3 spaces for each dwelling which were family homes and he compared this to the guidance set out in the relevant parking standards. He also referred to the Castle ward car ownership assessment which had indicated an average ownership of 0.85 cars per household. He observed that many dwellings in the ward comprised one bedroom only and the population was very often transient and non-car owning. He was of the view that the proposed three-bedroom family homes were likely to generate a more numerous car ownership pattern, particularly over time and he was concerned that this would lead to on-street parking in neighbouring unregulated roads. He also referred to concerns about design of the proposed dwellings, particularly given the unique character of several buildings in the vicinity of the site. Other recent developments had borrowed and replicated features from the mill and the nearby Tudor style cottages, whilst the proposed designs had made no concession to nearby architecture, being of a modern, contemporary design which could be found anywhere. Concerns had also been expressed about the tight bend to the access road and the potential for collisions on what was the designated Wivenhoe Trail cycle route. He explained that the principle of the development was not of concern but that residents' genuine concerns needed to be addressed. He also asked for former Councillor Laws' suggestion for the Section 106 Agreement associated with the development to include the provision of a floating jetty from the site be taken into consideration on the grounds that this would give local sailing groups access to the river beyond the weir.

Councillor Barlow attended and, with the consent of the Chairman, addressed the Committee. He explained that he did not object to the principle of the development of the site and welcomed the opportunity for the barn to be brought back into use. He agreed with a number of the concerns raised by Councillor Crow. He explained the importance of the access road on the site, being the main route for walkers, runners and cyclists from the town centre to the university and to Wivenhoe, as such it was a very busy route. He was concerned that the importance of the route had not been acknowledged in the proposals and how use of the route by people using a variety of modes of transport would be managed. He was also concerned about the increase in car use and the implications given poor visibility along the route. He questioned the validity of the current car ownership assessment for Castle ward on the basis that the conclusions had been based on average totals which would have included the town centre area where numerous one-bedroom flats were located, whilst the Riverside area of the ward had a very different mix of property types. He was also concerned about the practice of reducing parking space provision based on a site's accessibility to public transport links and other amenities as he did not consider that the current transport network was not adequate for this to deliver changes in people's attitude to their own car ownership. On this basis he considered the current application was flawed and needed to be looked at again.

The Chairman invited the Planning Specialists Manager to respond to the points raised.



He noted the acceptance of the need for the listed building to be restored and he referred to the considerable constraints attached to the site as a whole which had resulted in significant viability issues with the development of the site. He explained that the developer's anticipated profit on the site was likely to be as low as 10% as it was currently proposed and any suggestions to reduce the number of dwellings in order to increase the ratio of parking spaces would further reduce this return. The tranquil nature of the lane had been observed by speakers whilst requests had also been made for a greater number of parking spaces which he considered was a difficult balance to draw. He explained the parking standards requirements for this type of development which would deliver a total of 45 spaces, however, he emphasised that for sustainable and accessible locations it was acceptable to consider a lower number of spaces. He also referred to the emerging Local Plan which provided for assessments of existing car ownership levels and the concerns which had been raised in relation to the average totals which had been derived for the ward as a whole. He also explained, with the use of Census data, the 0.85 measure was an accurate indicative measure for the whole ward. He explained that the applicant had acknowledged that parking was a sensitive issue for residents and, in recognition of this, had offered contributions to assist with transport obligations identified, including the upgrading of the bus stop opposite the site, the establishment of a car club and improvements to the Wivenhoe Trail. It had also been proposed to introduce parking control measures and measures to prevent indiscriminate parking. He also explained that it had not been possible to widen the access route at the pinch point near the listed building but the scheme had provided for the realignment of the route where this was possible to improve visibility and widening to 6 metres where possible, together with traffic calming features. He explained that the negotiations had taken place with Highway Authority regarding potential conflict with cycle users and measures to make the route safe and no highway objections had been made about these proposals. In addition previous comments regarding a turning circle for fire appliances had now been addressed and it was also intended to widen the junction to East Hill. He confirmed that there was no statutory requirement to maintain a listed building in a good condition, although there were powers to enforce an owner to make a building weather tight which was why the scaffolding and sheeting had been erected by the developer. There was also an option for the Council to issue a Repairs Notice but, in this circumstance, there was also potential for the owner to serve a Compulsory Purchase Order on the Local Authority and the Council would then become liable for the repairs. The design proposals included traditional materials, such as brick work weather boarding and slate roofs whilst the heights proposed were lower than East Bay House were consistent in terms of architectural approach and materials to the surrounding Victorian housing, albeit they adopted a more contemporary style.

Members of the Committee generally welcomed the opportunity to secure the restoration of the mill, however the proposed three storey dwellings were considered inappropriate for the area and, by definition, would lead to a greater demand for car parking spaces. Considerable concern was expressed regarding number of parking spaces proposed which was significantly fewer than the standard parking space provision together with

the location and alignment of the parking spaces adjacent to an established national cycle route and the considerable potential for conflict. The concern was such that it was not considered that the control measures being proposed would adequately address the likely road safety compromises.

Additional comment was made in relation to the potential for the proposed dwellings with first flat roof areas to be converted to roof gardens and clarification was sought regarding the successful practical application of a car club.

The Planning Specialists Manager explained that a previous planning application had previously been approved for the site comprising a substantial development of three and four storey buildings, as such this constituted a material consideration. He explained the current proposals included the provision of both parking control and speed restriction measures along the access route to create a safe environment for all road users. He confirmed that permitted development rights in relation to extensions had been removed and the amendment sheet included a provision for the single storey element to Plot 20 to preclude its use as a roof terrace or garden. He acknowledged that the Committee members were mindful of the challenges associated with the development of the site, but he reminded them of the allocation for 22 dwellings in the emerging Local Plan, the discretion in the parking standards to accept a lower number of spaces in accessible locations, and the existence of a listed building at risk needing restoration. He considered the proposal satisfactorily struck the balance between the competing demands of the site and had recommended approval accordingly.

One member of the Committee acknowledged the potential for home owners living in close proximity to the town centre choosing to limit their car use and referred to the experience gained on the site visit whilst negotiating the road as it was currently. The need for improved signage on the site was suggested and the need for all users of the access road, whatever means of transport being used, to be respectful of others. Comment was also made, should the application gain approval, of the need for construction traffic to be very carefully managed.

Other members of the Committee continued to express considerable concern regarding the adequacy of the proposed parking provision for the site as a whole as well as concern about the overall design of the scheme which needed to be more in-keeping with the surrounding area, the height of the development and the difficulties which would present for visitors to the site, given the impracticalities of the proposed visitor parking provision. Clarification was also sought in relation to the percentage of Affordable Housing being provided within the development.

The Planning Specialists Manager referred to the Highway Authority's recommended conditions set out in the Amendment Sheet which included the provision of appropriate signage as well as improving the visibility, traffic calming measures and signage for parking. As such the Highway Authority were satisfied that a scheme could come

forward in a safe manner for all users of the access route. He again explained that the intention was to widen the route to six metres, where it was possible to do so, acknowledging there were pinch points around the site, such as near to the listed building where the width was about 3.2 metres and this width had been confirmed as acceptable for a fire appliance. It was also accepted that the pinch points would assist in slowing traffic down. He confirmed that the average parking provision across the site was 1.3 and he considered there was no reason the houses could not be allocated one space each with the remainder allocated as visitor parking, if this was considered preferable. He explained that it was proposed to provide a footpath at the site entrance for safe access for pedestrians with a parking bay for three vehicles. He noted the comments regarding the design of the buildings but he explained that the National Planning Policy Framework stated that the style of a building should generally not be used as grounds to refuse an application. He also advised the Committee to consider scale and mass issues in relation to previously approved schemes for the site and he confirmed the Council's Urban Design Officer was satisfied with the proposed design solution for the site and the statutory heritage consultees had not raised concerns in relation to design of the buildings. He acknowledged the need for construction vehicles to be controlled and he confirmed that a Construction Method Statement had been proposed which could be expanded to include the type of vehicles which would be suitable for the site. In clarifying the Affordable Housing contributions, he explained that the Council's Development Team had considered the proposals and had determined the contributions necessary to mitigate the development. Whilst the emerging Local Plan included an Affordable Housing threshold of 30%, the developer had indicated that the scheme was not a viable one, which had been accepted through independent assessment, and could not afford to provide Section 106 contributions. The developer had, nevertheless, accepted the need to make contributions totalling £167k to acknowledge the perceived deficiencies within the scheme. This meant that the usual anticipated Gross Development Value of between 15 and 20% would be reduced to 10%. It had been proposed that the contributions would remain available to the Education Authority for a period of five years, after which, if the sums remained unused, they would be transferred for use as Affordable Housing.

The Development Manager confirmed that the scheme as it stood had no viability at all for the developer and there was no requirement in planning terms for any mitigation contributions to be made. The developer had, nevertheless, effectively offered to make an ex-gratia payment which had been apportioned by the Development Team in accordance with the Council's adopted priorities. This was an exceptional circumstance for the developer to offer to make contributions in this situation, however if further discussions took place seeking to reduce the number of units or increase the number of parking spaces the viability would be reduced even further. He was of the view that the Committee needed to consider the dangers of the site suffering further dereliction, given the cross subsidy that was available to bring forward the repair of the listed building was contingent upon there being a development-led solution for the site. He was of the view that, for town centre locations, it was not uncommon to have considerably reduced

parking provision, even to the extent where no parking was provided. He advised the Committee members to balance the planning merits of the scheme and its potential harm against the public benefits of bringing forward a derelict site which was giving rise to the loss of an historic building, accepting that the development had no viability and, although it would bring forward no Affordable Housing, this had been justified.

Another member of the Committee referred to the multiplicity of sites around the town which comprised three as well as four and five storey buildings and, as such, did not consider it possible to restrict this site to two storey development. Reference was also made to the site' being within comfortable walking distance of the town centre. He supported the proposal to provide a Traffic Regulation Order to prevent access by Heavy Goods Vehicles to the site as well as the proposed cycle route signage provision for the Wivenhoe Trail. He was also of the view that the car parking spaces should be for reversing into only in order to protect the safety of cyclist and pedestrians. He also welcomed the proposal as a positive example of the development of a brownfield site.

Reference was also made to the regrettable lack of contributions for Affordable Housing, given the acknowledged lack of viability in the scheme although the clause for the education contributions to revert to Affordable Housing after a period of five years was welcomed. The opportunity to develop a brownfield site was also welcomed. It was suggested that there may be potential for officers to explore the reconfiguration of the layout of the site, subject to the loss of some open space and the loss of trees not subject to Tree Preservation Orders, in order to increase the parking provision by one or two further spaces. The concerns expressed in relation to conflicts between vehicles and cyclist was acknowledged, together with the need for signage as mitigation to address this.

A proposal to approve the planning application and the listed building consent in accordance with the recommendation contained in the report, subject to further negotiations regarding the layout of the site and the loss of additional unprotected trees in order to maximise the number of parking spaces provided, together with additional signage on site to mitigate the potential for conflict between vehicles, cyclist and pedestrians was proposed and seconded. On being put to the vote, the proposal was lost (FOUR voted FOR and FIVE voted AGAINST).

The Development Manager indicated that the Committee might like to consider a deferral of the planning application and listed building consent for officers to seek an increase to the parking provision and a reduction in potential conflict between cyclists, pedestrians and car users on the site.

**RESOLVED** (EIGHT voted FOR and ONE voted AGAINST) that the determination of the planning application and listed building consent be deferred and officers be instructed to negotiate with the applicant with a view to amending the proposals to include increased parking provision and a reduction in potential conflict between car parking, cyclists and

pedestrians.

**700      181783 Coopers Beach Holiday Park, Church Lane, East Mersea, Colchester**

The Committee considered a planning application for the conversion of existing barns and stables to 18 self-catering holiday accommodation units and for the erection of 14 new holiday cottages at Coopers Beach Holiday Park, Church Lane, East Mersea, Colchester. The application had been referred to the Committee because it had been called in by Councillor Moore.

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

Eleanor Moss, Senior Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

David Sunnocks, on behalf of East Mersea Parish Council and various objectors to the proposal, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred the scale of the development, considering it to be a major increase in the number of units at Cooper's Beach which was serviced by a single lane, already susceptible to traffic difficulties. He also commented on the damage caused to verges by vehicles and the track having no footpath and the local bus service being limited to one day per week. He considered that increased vehicular traffic would negatively impact the Council's wish to encourage cycle travel as an option. He commented on the potential for permanent residency on the site and surveys conducted by local residents to provide evidence of this for the Council's information. The Parish Council also considered there was a lack of continuity in Council decisions, citing applications made by local residents which had been refused on the grounds of lack of local services and the protection of the Coastal Protection Belt. He was of the view that the application had ignored the East Mersea Village Plan and he highlighted a report by the recent Clinical Commissioning Group regarding the development at Brierley Paddocks, West Mersea which concluded that the current GP surgery was already at full capacity. He concluded that the current number and intensity of caravans and chalets at East Mersea were detrimental to the local community and that pedestrians and cyclists were being discouraged by the number of tourists to the island and local services were already at full capacity.

Councillor Moore attended and, with the consent of the Chairman, addressed the Committee. She objected to the application on the grounds of the car dependency of the proposed development and that the transport statement, submitted with the application, was misleading. She was of the view that East Road was too dangerous for cyclists and pedestrians to use due to the narrowness of the road, lack of footpaths and verges and the speed of the traffic. She also referred to the severe lack of public transport in East Mersea, with one bus service per week on a Tuesday afternoon, and that the application

site was three miles from the centre of West Mersea and two miles from the nearest bus stop. She therefore considered that the justification for the proposed development was false. She disputed the existence of a post office, general store, bistro and nursery on East Road, as referred to in the applicant's travel plan. She insisted that the only way to safely access the site was by car and referred to a current permanent resident population of 8,000 together with 2,000 occupants of caravans on the island, voicing concerns about the proposed increase in visitor numbers. She was also concerned about the design of the units, being concerned about the potential urbanisation of Mersea Island and the potential damage to the Coastal Protection Zone. She asked the Committee members to use their discretion to refuse the application on the grounds she and the Parish Council had identified. She was also concerned about the lack of objection from the Highway Authority.

The Senior Planning Officer explained that, in terms of scale, the proposal was for 32 new units, eight of which were the conversion of existing buildings and 14 new holiday cottages on land well screened from the public view. The existing holiday park comprised over 400 units and, as such, the current proposal was not considered to be excessive. In terms of the location, there was support for development in rural locations in the National Planning Policy Framework and the Highway Authority did not consider that the proposal would have a harmful impact on local roads with cycle provision being made and walking routes encouraged, giving opportunities to make the site more sustainable. The proposal was also considered to comply with the relevant local planning policies. The design of the cottages, in particular in relation to roofs and materials, were considered to be in-keeping with the rural location. She explained that she had been advised by the Council's licensing and enforcement teams that regular reviews were conducted at the site and no evidence had been forthcoming in relation to permanent occupation at the site. In addition, a planning condition had been proposed to ensure there was no permanent residential use in relation to the current proposal.

One member of the Committee welcomed the imposition of a planning condition to enforce the temporary residential occupation and was considered to be an improvement on the current situation, provided the enforcement was robust. The anticipated highways impact of the proposed development was not considered to be sufficiently severe to warrant a refusal of the application, given no objection had been raised by the Highway Authority.

Other members of the Committee voiced considerable concern in relation to traffic and parking problems on the existing road network and the potential for these matters to deteriorate given the proposed parking provision for the development. Reference was also made to the number of previous applications which had been submitted in relation to the site, whether it was possible to take into account the need for a development and the changing character of Mersea Island since the caravan site development was first developed. The advice provided by the Highway Authority was acknowledged, whilst clarification was sought in relation to the measures set out in the travel plan to

encourage the use of cars more efficiently and the encouragement of walking, cycling and public transport as alternative methods of transport.

The Senior Planning Officer explained that the travel plan document proposed measures including the appointment of a travel plan co-ordinator with responsibilities including the issuing of the travel plan document, encouragement of car sharing, provide information on alternative forms of transport for staff, provide travel packs for visitors, provision of cycle stands and the introduction of cycle hire facility on the site. Secure cycle parking would also be provided for each of the holiday units. She further explained that the proposed measures also included information on sustainable key locations on the site for walking and cycling routes, together with further detail within the travel plan document. She confirmed there was no standard for car parking provision for this type of development, although one space had been provided for each unit and this had been considered acceptable, given the previous planning permissions for the site in 2012 and 2017 had included this same amount of car parking provision. She also confirmed that proposed Condition 3 would provide for additional enforcement measures in relation to permanent residential use.

Members of the Committee voiced concerns regarding the robustness of the proposals to encourage the use of public transport given the current public transport provision comprised only one bus journey each week. Clarification was also sought regarding the Highways Authority assessment of a development and whether it was possible for cumulative impact of multiple developments to be taken into account.

The Development Manager confirmed there was very little public transport serving the site, however, at least two identical schemes had been approved previously and the National Planning Policy Framework had not changed substantially but, if anything, it provided added support for development in the countryside. He acknowledged the valid comments made in relation to sustainability but, given the planning history and that there was no objection from the Highway Authority in terms of any severe impact, he did not feel there were material planning considerations upon which the Committee could sustain a refusal of the application. He further confirmed his understanding that the Highway Authority was only permitted to take into account the impact on the highway network and the highway capacity of any one development and, in this instance, the development was considered to be modest with negligible impact on the highway network.

*RESOLVED* (FIVE voted FOR and TWO voted AGAINST and TWO ABSTAINED) that, authority be delegated to the Assistant Director Policy and Corporate to approve the planning application subject to the submission of a satisfactory bat and newt survey and subject to the conditions set out in the report and the amendment sheet.

The Committee considered a planning application for the removal of condition 3 of planning permission 101276 (dated 24 Aug 2010) stating 'The building hereby permitted shall only be occupied by dependent relatives of the residents of the main dwelling on this site known as Stirling Lodge and the planning unit shall not be subdivided, separated or altered so as to create two or more dwelling units'. (Retrospective Application) at New Barns, Church Lane, Stanway, Colchester. The application had been referred to the Committee because the site was outside the adopted settlement boundary for Colchester in an area shown as countryside and related to the creation of an independent dwelling in lieu of an existing annexe, as such, the proposal was a Departure to Policy.

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

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

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

## **702     172873 West House Farm, Bakers Lane, Colchester**

**Councillor Jarvis (by reason of his home being located in Bakers Lane, some distance from the application site) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

**Councillor Liddy (by reason of his directorship of Colchester Archaeological Trust) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5).**

The Committee considered a planning application for the change of use of land from agriculture and erection of six holiday lets at West House Farm, Bakers Lane, Colchester. The application had been referred to the Committee because it had been called in by Councillor Barber. The Committee had before it a report in which all information was set out.

The Committee made a site visit in order to assess the impact of the proposals upon the locality and the suitability of the proposals for the site.

Benjy Firth, Planning Officer, presented the report and, together with Simon Cairns, Development Manager, assisted the Committee in its deliberations.

Robert Pomery addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He explained that the



applicant had sought planning permission for the site previously but the current application had changed significantly since the most recent proposal had been submitted and withdrawn. Detailed discussions with officers had influenced the current proposal in order to eradicate concerns from the planning authority and statutory consultees in terms of flood risk, landscape, highway safety and impact on the nearby listed building. In particular the Environment Agency and Highway Authority had not raised objections in relation to the access points and visibility splays. Both the existing and emerging Local Plans supported tourism accommodation in the countryside provided it was of appropriate scale with minimal impact on surrounding area. He was satisfied that the current proposal met these criteria and other environmental requirements and no objections had been received from statutory consultees. He acknowledged the concerns of the objectors to the proposal but only three of the eight residents adjoining the site had submitted objections. He was of the view that the proposal was entirely compliant with relevant policies. He also referred to footpath routes from the site connecting to the town centre within 20 minutes and there was a bus stop on Spring Lane.

Councillor Willetts attended and, with the consent of the Chairman, addressed the Committee. He explained that he did not object to holiday homes for let in principle but he was aware that the Local Plan restricted development outside the Settlement Area, whilst allowing leisure and tourism applications in the countryside where they were appropriate and in scale. He considered the key issue in relation to the proposal to be in terms of sustainability, considering it was not on a bus route, there were no footpaths along Baker's Lane, Baker's Lane was not safe for use by cyclists and the development would be car-centric. As such he considered the proposal to be unsustainable and therefore not compliant with the National Planning Policy Framework. He was also concerned about the potential for the site to be extended in the future through subsequent applications. He also referred to a better model for this type of development which was situated on the other side of the Spring Lane roundabout at Colchester Camping on Cymbeline Way, being in 200 metres of a frequent bus service to the town centre. This aspect was not a feature of the proposal under consideration. He acknowledged that the east side of the proposal would be screened by the golf course, whilst this would not be true of the west side which would be visible across the flood plain and the slip roads of the A12. He referred to comments made by the Highway Authority that Baker's Lane was a busier road than its design benefitted and he was further of the view that the road was sub-standard with collapsing verges and generally unmaintained. He was of the view that anything which would generate more traffic should be avoided and, as such he implored the Committee members to refuse the application.

Members of the Committee referred to the unsafe nature of Baker's Lane, the site was outside the Settlement Area and, as such, was not allocated for development and policy stated that such proposals should be refused unless material considerations dictated otherwise. Concern was expressed about the negative impact of the proposal on the road and the nearby residents and reference was made to a recent appeal decision and

the substantial weight given by the Inspector to the harm to the character and appearance of the area. It was also considered that the proposal would have a very detrimental impact on the local community which had successfully campaigned for acknowledgement of the need for measures to reduce the speed of vehicles and improve safety, due to the lack of a footpath along the road, poor sight lines due to the height of hedging and the meandering alignment of the road. Comments made previously about the likelihood of subsequent applications and the better location along Cymbeline Way were supported, whilst the need for the special nature of the site to be preserved was stressed. Clarification was sought regarding the adequacy of the screening proposals for the west side of the development, whether it would be possible to remove permitted development rights to prevent subsequent further development of the site and, given safety concerns expressed regarding the use of the road by pedestrians, whether any measures would be possible to restrict the speed limit along Baker's Lane.

The Planning Officer confirmed there was a footpath at the southern end of Baker's Lane, the route of which extended to North Station and the town centre but he acknowledged that Baker's Lane was not well equipped for pedestrians or cyclists as there was no footway along the road. He confirmed that the proposal did comply with policy in that it had poor accessibility but was appropriate in terms of its small scale. He confirmed that it was proposed to introduce a full band of native hedging and young trees along the river bank to the western side of the development which would obscure the views of the development. He also confirmed that the units were one storey only and would be painted in recessive colours, using black weatherboarding and roof slates. He confirmed that the Highways Authority were satisfied that sight splays could be created up to standard for the development. He also confirmed that it was only possible to consider the number of units proposed within the scheme before the Committee and any proposals to extend the development further would have to be the subject of a separate planning application. He explained that the traffic impact from the development was considered to be minimal and he was of the view that existing safety concerns were a matter which needed to be raised with the Highway Authority separately.

Another member of the Committee commented on the location of the footpaths along Baker's Lane as indicated on the definitive Map of Public Rights of Way, one to the north of the site and one at the southern end of the road. It was further acknowledged that neither of these routes extended to the site of the current proposal and it was considered that any pedestrians attempting to walk from the development site to either of the two footpaths would be in considerable danger due to the high volume and frequency of vehicular traffic travelling along the road. Comment was made about the ability of the Committee to require the Highway Authority to erect signage to warn motorists that there may be pedestrians using the road. As a consequence very considerable concern was therefore expressed regarding the proposal on the grounds that there was no footpath along Baker's Lane and the site did not give direct access to the public rights of way off road.

The Development Manager acknowledged the arguments made in relation to the proposal being harmful to the character and appearance of the area and its rural amenities and that it was poorly served by sustainable means of transport. He was of the view that these grounds could form the basis for reasons for refusal of the applications should the Committee members be so minded, with authority delegated to officers to formulate the appropriate detailed wording.

A proposal to approve the planning application subject to the conditions set out in the report was proposed and seconded. On being put to the vote, the proposal was lost (FOUR voted FOR and FIVE voted AGAINST).

*RESOLVED* (FIVE voted FOR and THREE voted AGAINST and ONE ABSTAINED) that the planning application be refused on the grounds of harm to the special qualities and character and appearance of the countryside in this important rural edge of the town, the unsustainability of the location that was poorly served by sustainable modes of transport and the lack of footways prejudicing the safety of pedestrians and the substandard width and alignment of Baker's Lane with the detailed wording of the reasons for refusal being delegated to the Assistant Director Policy and Corporate.

**703      190649 Jacks, 5 St Nicholas Street, Colchester**

The Committee considered a planning application for an increase in roof height to enable installation of roof insulation, while permitting internal exposure of some existing roof structure and new double doors to the shopfront at Jacks, 5 St Nicholas Street, Colchester. The application had been referred to the Committee because the application has been made on behalf of Colchester Borough Council.

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

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

**704      Request for Deed of Variation to the Hill Farm, Carters Hill, Boxted Section 106 Agreement in respect of mortgagee exclusion**

The Committee considered a report by the Assistant Director Policy and Corporate concerning a request for a Deed of Variation to the Hill Farm, Boxted Section 106 agreement in respect of the mortgagee exclusion clauses. It was explained that the existing agreement was restricting the ability of the affordable housing registered provider to borrow finance at the Market Value Subject to Tenancy and the proposed amendment would allow the registered provider to raise additional finance. The number of affordable housing units to be provided would not be affected.

*RESOLVED* (UNANIMOUSLY) that the requested Deed of Variation to the Section 106 agreement dated 7 August 2017, in respect of changes to the mortgage exclusion clauses, be endorsed.

**705      Application to discharge or revoke an existing Section 106 Agreement, Planning Application No 190821**

The Committee considered a report by the Assistant Director Policy and Corporate concerning a planning application to discharge or revoke the existing Section 106 Agreement at the Peldon Rose Public House and Rose Barn, Peldon. It was explained that two of the four clauses in the Section 106 agreement were no longer relevant whilst the remaining two clauses concerned the removal of permitted development rights. It was considered that these remaining clauses were no longer reasonable or necessary due to the Listed Building status of the Public House and because Rose Barn was detached, set in a sizeable curtilage and separated from the nearest dwelling by substantial landscaping.

*RESOLVED* (UNANIMOUSLY) that the existing Section 106 agreement for the Peldon Rose and Rose Barn be revoked.