

PLANNING COMMITTEE

1 MARCH 2016

Present:- Councillor J F White (Chairman), Councillor R A Heaney (Vice-Chairman), Councillor L M Bennison, Councillor R H Everett, Councillor Z Fairley, Councillor M Fowler, Councillor J H P Hones, Councillor L A McWilliams, Councillor F H Nicholls and Councillor R E Raby

Also Present:- Councillors Turner and Watling

In Attendance:- Acting Planning Development Manager (Gary Guiver), Communications and Public Relations Manager (Nigel Brown), Planning Officer (Matthew Lang), Solicitor (Charlotte Parker-Smith), Senior Democratic Services Officer (Ian Ford) and Democratic Services Officer (Katie Sullivan)

(6.00pm - 6.58 pm)

100. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence had been received on behalf of Councillor Poonian. There were no substitutions.

The Chairman welcomed back Councillor Heaney, the Vice-Chairman following her recent absence from the Committee due to her recovery from an operation.

101. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on 2 February 2016, were approved as a correct record and signed by the Chairman.

102. DECLARATIONS OF INTEREST

Councillor Nicholls declared a non-pecuniary interest in relation to Planning Application 14/01292/OUT by virtue of the fact he was a local Ward Member.

Councillor Heaney declared a non-pecuniary interest in relation to Planning Application 14/01292/OUT by virtue of the fact she was a local Ward Member.

Councillor Everett declared a non-pecuniary interest in relation to Planning Application 15/01837/FUL by virtue of the fact he was a resident in that Ward.

Councillor Turner, present in the public gallery, declared a non-pecuniary interest in relation to Planning Application 15/01837/FUL by virtue of the fact he was a local Ward Member.

Councillor Watling, present in the public gallery, declared a non-pecuniary interest in relation to Planning Application 15/01837/FUL by virtue of the fact he was a local Ward Member.

103. PLANNING APPLICATION - 14/01292/OUT - LAND TO THE WEST OF CHURCH ROAD, ELMSTEAD MARKET, CO7 7AR

Councillor Nicholls had earlier declared a non-pecuniary interest in relation to Planning Applications 14/01292/OUT by virtue of the fact he was a local Ward Member.

Councillor Heaney had earlier declared a non-pecuniary interest in relation to Planning Applications 14/01292/OUT by virtue of the fact she was a local Ward Member.

Members recalled that this application had been referred to the Committee on 3 March 2015 and 15 December 2015. The Committee had resolved to grant outline planning permission on both occasions, subject to the completion of a Section 106 legal agreement within six months (i.e. by 3 September 2015, then by 28 February 2016) and subject to conditions; otherwise the Head of Planning had the delegated Authority to refuse the application if necessary. Any reserved matters application was to be referred to the Planning Committee.

It was reported that, since the date of the last resolution, discussions regarding the completion of the Section 106 legal agreement had been ongoing. Having specific regard to the issues of viability and deliverability, advice had been sought from the District Valuer Service. The Acting Planning Development Manager (GG) now sought the Committee's agreement to an extension of time until 29 April 2016 in order to complete the legal agreement.

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Raby and RESOLVED:

That the Head of Planning (or equivalent authorised officer) be authorised to grant outline planning permission for the development subject to:-

a) By no later than 29 April 2016 the completion of a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where required):

- Affordable Housing (Subject to viability report)
- Education contribution
- Highway and Public Transport improvements
- Public open space contribution
- Completion and transfer of public open space, allotments and community facilities

b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

(i) Conditions:

1. Details of the appearance, access, layout, scale and landscaping (the reserved matters)
2. Application for approval of the reserved matters to be made within three years.
3. The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters
4. Development to contain up to 20 dwellings
5. Details of materials
6. Hard and soft landscaping
7. All hard and soft landscaping implementation
8. Development constructed in accordance with details contained within the Tree Report
9. Landscaping – Five year clause
10. Landscape/Public open space management plan
11. Ecological mitigation scheme and management plan
12. Details of boundary treatments

13. Details of refuse storage/collection points
14. Archaeology investigative and report works
15. Site lighting strategy
16. Construction Method Statement, including details of hours of operation during construction.
17. Parking in line with adopted Parking Standards
18. Details of a surface water drainage scheme, including surface water swales
19. Footpath works to the north of the site
20. Detailed assessment of ground conditions of the land proposed for new playing field
21. Playing field to be used for outdoor sport and for no other purpose
22. Pitch shall be constructed and laid out in accordance with the standards and methodologies set out in the guidance note Natural Turf for Sport
23. Details of a management and maintenance scheme for the facility
24. Details of a community use scheme to be applied to the playing fields and community hall
25. Contamination investigation
26. Details of wheel cleaning facility
27. Prior to commencement of development, details of the following to be submitted and approved:

- Upgrading of the two bus stops in the vicinity of the Colchester Road/Church Road/Clacton Road/School Road junction to current Highway Authority specification which may include but shall not be limited to real time passenger information
- Possible improvements at and in the vicinity of the Colchester Road/Church Road/Clacton Road/School Road junction

28. No occupation of the development until the following have been provided or completed:

- A priority junction off Church Road to include as a minimum 2no. 6 metre kerbed radii, 1no. footway and a 43 x 2.4 x 43 metre visibility splay
- A minimum 4.8 metre wide carriageway in Church Road between the proposal site access and the private access located immediately south of 43, Church Road
- Two new sections of minimum 1.5 metre wide footway along Church Road between the proposal site access and the private access located immediately south of 43, Church Road
- The agreed details for upgrading of the two bus stops in the vicinity of the Colchester Road/Church Road/Clacton Road/School Road junction
- The agreed details of improvements at and in the vicinity of the Colchester Road/Church Road/Clacton Road/School Road junction

29. Scheme to provide renewable energy and energy and water efficiency technologies to be used.

30. Layout and Phasing Plan and Programme

c) That the Head of Planning (or the equivalent authorised officer) be authorised to refuse outline planning permission in the event that such legal agreement has not been completed by 29 April 2016, as the requirements necessary to make the development acceptable in planning terms had not been secured through Section 106 planning obligation, contrary to saved policies QL2, HG4 (where relevant), COM6, COM26 and QL12 of the Tendring District Local Plan (2007) and draft policies SD7, PEO22, PEO10 and KEY2 of the Tendring District Local Plan Proposed Submission Draft (2012), as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).

d) That any Reserved Matters application for this development be submitted to the Committee for its consideration.

104. PLANNING APPLICATION - 15/01837/FUL - LAND ADJACENT 74 POLE BARN LANE, FRINTON-ON-SEA, CO13 9NH

Councillor Everett had earlier declared a non-pecuniary interest in relation to Planning Application 15/01837/FUL by virtue of the fact he was a resident in that Ward.

Councillor Turner, present in the public gallery, had earlier declared a non-pecuniary interest in relation to Planning Application 15/01837/FUL by virtue of the fact he was a local Ward Member.

Councillor Watling, present in the public gallery, had earlier declared a non-pecuniary interest in relation to Planning Application 15/01837/FUL by virtue of the fact he was a local Ward Member.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Officer (ML) in respect of the application.

Lilian Pendle, a resident of Pole Barn Lane, spoke against the application.

Councillor Turner, a Ward Member, spoke against the application.

Following discussion by the Committee, it was moved by Councillor Hones, seconded by Councillor Bennison and RESOLVED, on the Chairman's casting vote, that the Head of Planning Services be authorised to grant planning permission for the development, subject to planning conditions in accordance with those set out below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning Services in their discretion considers appropriate):

Conditions:

1. Time Limit (3 Yrs)
2. Detail of Materials
3. Landscaping Scheme
4. Implementation of Landscaping
5. Details of Screen Walls/Fencing
6. Parking Area Providing Prior to First Occupation
7. Vehicular access being constructed to 5.5m in width and provided with dropped kerb
8. No unbound materials throughout vehicular access
9. Submission of Construction Method Statement
10. Construction of pedestrian crossing facilities on both sides of bellmouth junction
11. Removal of Permitted Development Rights (Extensions/Outbuildings)
12. Approved Plans

105. PLANNING APPLICATION – 15/01923/DETAIL - LAND ADJACENT KIRKMEAD, CLACTON ROAD, WEELEY, CO16 9DN

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Officer (ML) in respect of the application.

An update sheet was circulated to the Committee prior to the meeting with details of a letter of objection received from Mr and Mrs Whistler together with an officer response thereto.

Peter Dumsday, the Chairman of Weeley Parish Council, spoke on the application.

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Hones and RESOLVED that the Head of Planning Services be authorised to grant planning permission for the development, subject to planning conditions in accordance with those set out below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning Services in their discretion considers appropriate):

Conditions:

1. Approved plans
2. Construction in Accordance with Tree Survey/Report
3. Car Parking/Garages/Visitors Spaces to be provided before occupation
4. Vehicular Accesses/Footways/Service Road prior to occupation as per approved plan
5. Construction Method Statement

The Committee requested that an Informative be sent to the Applicant advising that they should hold discussions with Essex County Council Highways Department and Weeley Parish Council with regard to the location and design of the bus stop.

106. PLANNING APPLICATION – 15/01808/FUL – CLACTON PAVILION, PIER GAP, CLACTON-ON-SEA, CO15 1PS

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Development Manager in respect of the application.

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Raby and RESOLVED that the Head of Planning Services be authorised to grant planning permission for the development, subject to planning conditions in accordance with those set out below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning Services in their discretion considers appropriate):

Conditions:

1. Standard 3 year time limit.
2. Limit on the height of any permitted rides and attractions.
3. Details of materials, hard and soft landscaping and tree planting/removal.
4. Submission of a drainage strategy.

107. PLANNING APPLICATION – 15/01603/FUL 201 CLOES LANE, CLACTON-ON-SEA, CO16 8AG

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Development Manager in respect of the application.

Following discussion by the Committee, it was moved by Councillor Fowler, seconded by Councillor Fairley and RESOLVED that the Head of Planning Services be authorised to grant planning permission for the development, subject to planning conditions in accordance with those set out below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning Services in their discretion considers appropriate):

Conditions:

1. Standard Time Limit
2. Approved plans
3. No unbound materials within 6 metres of the highway/throughout
4. Construction Method Statement

108. URGENT ITEM

PLANNING APPLICATION 15/01234/OUT - LAND EAST OF HALSTEAD ROAD, KIRBY CROSS, FRINTON ON SEA, CO13 0LR - ERECTION OF UP TO 240 DWELLINGS WITH A COMMUNITY HUB INCLUDING EITHER A 40-BED SPACE CARE HOME (CLASS C2) OR A HEALTHCARE FACILITY (CLASS D1) TOGETHER WITH ACCESS FROM HALSTEAD ROAD, WOBURN AVENUE AND BUCKFAST AVENUE; A PARKING AREA FOR UP TO 30 VEHICLES; GREEN INFRASTRUCTURE PROVISION INCLUDING CHILDREN'S PLAY AREA, KICK-ABOUT AREA, FOOTPATHS, STRUCTURAL LANDSCAPING AND BIODIVERSITY ENHANCEMENTS; A SUSTAINABLE DRAINAGE SYSTEM INCLUDING DETENTION BASIN AND SWALES AND OTHER RELATED INFRASTRUCTURE AND SERVICES PROVISION

The Chairman of the Committee informed Members that he had agreed to consider a report on the aforementioned planning application, which was the subject of a Planning Appeal, as an urgent item as the Council was required to submit its statement of case by Friday 5 February 2016 and so there was consequently insufficient time to bring a report to the next scheduled meeting of the Committee.

Further to Minute 93 above, Councillor Everett declared an interest in relation to this item by virtue of the fact that he had applied to be a Rule Six Party at the Planning Inquiry. He then left the meeting.

The Committee recalled that, at its meeting held on 17 November 2015, it had considered this application and had decided to refuse planning permission on the following grounds:

"1. Paragraph 32 of the National Planning Policy Framework requires Local Planning Authorities, when making decisions, to take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Policy TR1a in the Tendring District Local Plan (2007) (the adopted Local Plan) requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy SD8 in the Tendring District Local Plan: Proposed Submission Draft (2012), as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (the emerging Local Plan) states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.

Furthermore, Policy QL10 of the adopted Local Plan seeks to ensure that all new developments meet functional needs which includes that access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. Information submitted in support of the proposed development shows that a section of the residential scheme (approximately 28 dwellings) is intended to be accessed from Buckfast Avenue and Woburn Avenue which, in turn, would lead to an increase in the number of vehicles seeking to join the busy Frinton Road via its junctions with Elm Grove and Willow Avenue. The proposed development would intensify the use of these junctions onto a stretch of classified highway which carries significant traffic movements and the applicant has failed to demonstrate, to the Council's satisfaction that such increased usage would not result in a severely detrimental impact on highway safety. The development is therefore contrary to paragraph 32 of the National Planning Policy Framework and would be contrary to Adopted Local Plan (2007) Policies QL10 and TR1a and emerging Local Plan Policy SD8.

2. Paragraph 32 of the National Planning Policy Framework requires Local Planning Authorities, when making decisions, to take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Policy TR1a in the Tendring District Local Plan (2007) (the adopted Local Plan) requires that development affecting highways be considered in relation to reducing and preventing hazards and inconvenience to traffic including the capacity of the road network. Policy SD8 in the Tendring District Local Plan: Proposed Submission Draft (2012), as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (the emerging Local Plan) states that developments will only be acceptable if the additional vehicular movements likely to result from the development can be accommodated within the capacity of the existing or improved highway network or would not lead to an unacceptable increase in congestion.

Furthermore, Policy QL10 of the adopted Local Plan seeks to ensure that all new developments meet functional needs which includes that access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate.

Information submitted in support of the proposed development shows that, in order for the highway network to accommodate the additional vehicle movements that would result from the development, it is proposed that the existing Frinton Road/Halstead Road roundabout would be removed and replaced with a set of traffic signals as well as yellow box markings and pedestrian crossing facilities at the traffic signals.

It is the Council's opinion that the introduction of the proposed highways solution at the

junction of Frinton Road and Halstead Road would worsen, rather than address, traffic problems currently experienced in this location and would instead result in an obstruction of a stretch of classified highway which carries significant traffic movements. Consequently the applicant has failed to demonstrate, to the Council's satisfaction, that the development would not lead to a severely detrimental impact on highway capacity and safety. The development is therefore contrary to paragraph 32 of the National Planning Policy Framework and would be contrary to Adopted Local Plan (2007) Policies QL10 and TR1a and emerging Local Plan Policy SD8.

3. Paragraphs 76 to 78 in the National Planning Policy Framework refer to the designation of 'Local Green Space' in Local Plans and Neighbourhood Plans as spaces of local importance where development can be ruled out, other than in very special circumstances. Local policies for managing development of Local Green Spaces is to be consistent with policy for 'Green Belts' as set out in section 9 of the Framework.

The proposed development is located within an area defined as Local Green Gap within the Tendring District Local Plan (2007) (the adopted Local Plan). Policy EN2 in the adopted Local Plan states: "During the Plan period, land within Local Green Gaps, as defined on the Proposals Map, will be kept open, and essentially free of development. This is to prevent the coalescence of settlements, and to protect their rural settings. Minor development proposals may be permitted if they do no harm, individually or collectively, to the purposes of a Local Green Gap or to its open character. These may include the improvement of existing leisure and recreational facilities, and development for agricultural purposes. In Local Green Gaps, where resources and opportunities permit the Council will encourage the improvement of public rights of way."

The specific purpose of the Local Green Gap in this location, as set out in supporting paragraph 6.11 of the adopted Local Plan is to:

- Safeguard the identity, character and rural setting of Kirby-le-Soken and Great Holland as free standing villages in the countryside; and
- Protect the remaining village character of Kirby Cross and its rural setting.

The application site is similarly located within the Strategic Green Gap as depicted in the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014) (the emerging Local Plan). These gaps have been carefully defined in specific locations where there is a genuine risk, due to the close proximity of settlements or neighbourhoods that any development approved could undermine (in whole or in part) the remaining undeveloped gap and jeopardise those settlements individual identities. Within these Green Gaps, the Council will resist all development proposals unless there is a genuine functional reason why a particular development must take place in that specific location and cannot be located on an alternative piece of land outside of the designated gap. The intention of this policy is broadly consistent with Paragraph 80 of the National Planning Policy Framework in respect of Green Belt and that of Paragraphs 76 to 78 in respect of Local Green Space.

It is acknowledged, at the time of this decision, that the adopted Local Plan in respect of housing land supply is out of date and the Council is unable to identify a five year supply of deliverable housing sites against its objectively assessed requirements. Whilst the development of up to 240 homes would make a significant contribution toward addressing housing need in Tendring, the Council considers that the adverse environmental impact caused by development in the Local Green Gap, and the consequent negative impact on the identity, character and rural setting of Kirby Cross and Kirby-le-Soken, contrary to adopted Policy EN2, would significantly and demonstrably outweigh any social and economic benefits of the proposal and would not therefore constitute sustainable development.

4. Chapter 11 of the National Planning Policy Framework (NPPF) sets out the Government's objective of conserving and enhancing the natural environment with paragraph 118 identifying a number of principles against which planning applications should be considered in order to ensure that they conserve and enhance biodiversity.

In support of Government's objective as it relates to conserving and enhancing the natural environment, policies within Chapter 6 of the Tendring District Local Plan (2007) and Policy PLA4 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended seek to ensure that where development is likely to harm nature conservation or geo-diversity interests, planning permission will only be granted in exceptional circumstances. The benefits of the development should clearly outweigh the harm caused and where appropriate mitigation measures must be incorporated into the development to the satisfaction of Natural England and other relevant Authorities.

When dealing with cases where a European Protected Species may be affected, a planning authority has a statutory duty to have regard to the requirements of the Habitats Directive in the exercises of its functions. Further the Directive's provisions are clearly relevant in reaching planning decisions, and these should be made in a manner which takes them fully into account.

Under Regulations 61 and 62 of the Habitats Regulations, local planning authorities as the 'competent authority' must have regard for any potential impact that a plan or project might have on European designated sites. The site is located close to Hamford Water which is designated as a Site of Special Scientific Interest (SSSI), Special Protection Area (SPA), Ramsar site, Special Area of Conservation (SAC) and National Nature Reserve (NNR).

Based on the above duty extended to Local Planning Authorities the Council considers that the submitted Ecological Assessment (EA) and Habitats Regulations Assessment completed in support of the application identifies the need for additional protected species survey work to update and clarify information submitted in the original application, but additional work has not yet been undertaken. In the absence of the required additional survey work, the Council feels unable to fully assess the impacts and implications of the scheme upon the biodiversity interests of the site itself and wider impacts on Hamford Water and therefore the proposal would be contrary to the aims and objectives of the NPPF as set out in Chapter 11 while also being contrary to Policies EN6, EN6a and PLA4 in the adopted and emerging Local Plans.

5. The National Planning Policy Framework (2012), at its heart, promotes a presumption in favour of sustainable development that performs an economic, social and environmental role. Where local planning authorities are unable to identify a five year supply of deliverable housing sites against objectively assessed future needs, plus an appropriate buffer, policies relating to housing supply are considered out of date and the presumption in favour of sustainable development applies, requiring planning permission to be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

However, paragraph 119 in the Framework specifically states that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined. As explained in the fourth reason for refusal set out above, the Council is not satisfied that potential impacts of the development on Hamford Water as a designated site of international importance for wildlife have been fully assessed through the Habitat Regulation Assessment (appropriate assessment) and the other studies provided and therefore the presumption in favour of sustainable development does not apply, allowing the policies in the Tendring District Local Plan (2007) (the adopted Local Plan) to be given a high level of weight.

The development site lies outside of the settlement development boundary for the Frinton, Walton and Kirby Cross urban area and also falls within a Local Green Gap and is therefore contrary to both Policies QL1 and EN2 of the adopted Local Plan. Notwithstanding the acknowledged shortfall in housing land, on the basis that the presumption in favour of sustainable development does not apply for the reasons set out above, outline planning permission is refused.

6. Chapter 10 of the NPPF speaks to the need for developments to meet the challenge of climate change, flooding and coastal change. Paragraphs 99 through to 102 places an onus on planning authorities and applicants to ensure that planning applications have regard to and are determined to ensure that flood risk is not increased elsewhere. Paragraph 103 in part states that developments should be appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

Policy EN13 of the Adopted Local Plan (2007) and Policy PLA3 of the Draft Local Plan (2012) requires that all new development, excluding householder development, should incorporate Sustainable Drainage Systems (SuDS) as a means of reducing flood risk, improving water quality, enhancing the green infrastructure network and providing amenity benefit. Justification must be given for not using SuDS.

These policies are clear that planning permission for new development will not be granted unless it can be demonstrated that any surface/wastewater from the development can be dealt with within the confines of existing 'discharge consents' or that an acceptable alternative will ensure protection of the environment.

In the Council's opinion the proposed scale of development may present risks of flooding on-site or off-site if surface water run-off is not effectively managed. In the Council's opinion insufficient information exists to reach an informed decision on whether these risks can be properly mitigated and managed. The proposal is therefore contrary to the requirements of the National Planning Policy Framework, Policy EN13 of the Adopted Local Plan (2007) and Policy PLA3 of the emerging Local Plan (2012)."

It was reported that the applicant had lodged an appeal against the Council's decision and that the Appeal would be heard at a Public Inquiry to be held on 5 July 2016. In order to inform the Council's Statement of Case, that was required to be submitted by 5 February 2016, Officers had sought independent legal advice from an external Counsel with regard to the contents of the Council's case.

A summary of that legal advice had indicated that:

- i) The Green Gap reason for refusal would be the only defensible reason for refusal with a realistic chance of success. The advice also indicated that it is possible that the Council would be successful at appeal on this ground alone.
- ii) The Highways reasons would not be defensible unless the Council can specifically identify shortcomings in the applicant's Transport Assessment. As the findings and solutions set out within these reports were considered and supported by Essex County Council Highways as the Highways Authority and without any evidence to the contrary being before the Planning Committee or available to the Council to defend this ground for refusal, there is a substantial risk of costs being awarded against the Council by continuing to rely on the Committee's reasons for refusal and the firm legal advice is that the Committee no longer pursue this ground.
- iii) The Ecological reasons again would not be defensible and advice suggested that Officers followed the correct approach with regard to their assessment of the ecological

matters presented within the application and their presentation of the facts to the Planning Committee. Here again without any evidence to the contrary being before the Planning Committee or available to the Council to defend this ground for refusal, there is a substantial risk of costs being awarded against the Council by continuing to rely on the Committee's reasons for refusal and the firm legal advice is that the Committee no longer pursue this ground.

iv) As with the two points discussed above the legal advice stated that the Flooding reason would also not be defensible unless the Council can identify flaws in the applicant's Flood Risk Assessment. This Flood Risk Assessment was considered by Essex County Council SuDS as the Local Flood Authority who raised no objection with regard to its contents or recommendations. Members are also reminded that this was an outline application with all matters apart from access reserved for later consideration and as such the details of any drainage scheme can be secured by condition and presented as part of the detail application. Again there is a substantial risk of costs being awarded against the Council by continuing to rely on the Committee's reasons for refusal and the firm legal advice is that the Committee no longer pursue this ground.

In the light of the above advice the Committee was requested to decide which of the reasons for refusal Officers would defend at the Public Inquiry.

The Committee was also made aware of the National Planning Practice Guidance that dealt with the awards of costs.

Following discussion by the Committee, it was moved by Councillor Nicholls, seconded by Councillor Hones and RESOLVED that the Committee:

1. Notes the summary of the legal advice received from external Counsel;
2. Confirms in the light of the clear legal advice received that it does not wish to continue defending grounds 1, 2, 4, 5 or 6 as set out above; and
3. Instructs Officers to work with Counsel to defend the planning appeal on the sole ground of reason for refusal 3, as set out above, relating to the Green Gap policy.

109. PLANNING APPLICATION – 15/01080/OUT - ALLOTMENT FIELD ADJACENT GREAT OAKLEY PRIMARY SCHOOL, BEAUMONT ROAD, GREAT OAKLEY CO12 5BA

Councillor Howard, present in the public gallery, had earlier declared a non-pecuniary interest in relation to Planning Application 15/01080/OUT by virtue of the fact he was the local Ward Member.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Senior Planning Officer (Susanne Ennos), in respect of the application.

Dr. Michael Coggan spoke in support of the application.

Alan Adams, a local resident, spoke against the application.

Councillor Howard, the local Ward Member, spoke on the application.

Edward Gittins, representing the applicant's agent, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Hones and RESOLVED that the Head of Planning (or equivalent authorised

officer) be authorised to grant planning permission for the development subject to:-

a) Within six months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where required):

- Affordable Housing
- Education
- Provision of Community Facilities
- Highway Works
- Ownership of Village Hall and Doctors Surgery

b) Planning conditions in accordance with those set out in below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate).

Conditions:

1. Standard 3 year time limit for commencement of the full element and standard time limit for the submission of reserved matters and commencement of development for the outline element.
2. Development in accordance with submitted plans
3. Details and samples of facing and roofing materials
4. No more than 51 dwellings
5. No occupation until a priority junction off Beaumont Road has been provided
6. Details of improvements to public right of way to be agreed and carried out prior to first occupation
7. Development in accordance with landscape masterplan
8. Car parking area (hard surfaced, sealed and marked out in parking bays)
9. Detailed Surface Water Strategy
10. Development in accordance with Extended Phase 1 Ecology Survey
11. Wheel cleaning
12. Residential Travel Packs
13. Development in accordance with recommendations set out in the Arboricultural Impact Assessment.
14. Removal of Permitted Development so the shop is retained
15. Demolition and Construction Method Statement

c) That the Head of Planning be authorised to refuse outline planning permission in the event that such legal agreement has not been completed within the period of six months, as the requirements necessary to make the development acceptable in planning terms had not been secured through S106 planning obligation, contrary to saved policies HG4, COM6, COM26 and QL12 of the Tendring District Local Plan (2007) and draft policies SD7, PEO10 and PEO22 of the Tendring District Local Plan Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).

d) That the Reserved Matters application be submitted to the Committee for its determination.

e) That the Head of Planning Services (or equivalent authorised Officer) be authorised to impose an extra planning condition (if deemed necessary) in respect of requiring a Bat Survey of Tree TN2, the subject of a Tree Preservation Order, if the evidence suggests a potential bat habitat.

110. PLANNING APPLICATION – 15/00987/OUT - LAND TO NORTH OF BREAK OF DAY AND NEWLANDS, BEAUMONT ROAD, GREAT OAKLEY, CO12 5BD

Councillor Howard, present in the public gallery, had earlier declared a non-pecuniary interest in relation to Planning Application 15/00987/OUT by virtue of the fact he was the local Ward Member.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of refusal.

An update sheet was circulated to the Committee prior to the meeting with details of a letter received from the agent raising various points of issue with the Officers' report.

At the meeting, an oral presentation was made by the Council's Senior Planning Officer (Susanne Ennos), in respect of the application.

Alan Adams, a local resident, spoke against the application.

Councillor Howard, the local Ward Member, spoke on the application.

Peter Le Grys, the applicant's agent, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Fairley, seconded by Councillor Everett and RESOLVED that consideration of this application be deferred in order to enable the Officers to clarify with the applicant issues relating to any trees to be lost; the requirements of a related Section 106 Agreement; access arrangements for the site; and a Phase 1 Habitat Survey.

111. PLANNING APPLICATION – 15/01502/FUL - LAND ADJACENT THE CROSS INN PUBLIC HOUSE, ARDLEIGH ROAD, GREAT BROMLEY CO7 7TL

Councillor Nicholls had earlier declared an interest in relation to Planning Application 15/01502/FUL by virtue of the fact he was a local Ward Member, a member of the local Parish Council and also by the fact that she was pre-determined.

Councillor Fairley had earlier declared an interest in relation to Planning Application 15/01502/FUL by virtue of the fact she was pre-determined.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

An update sheet was circulated to the Committee prior to the meeting with details of a letter received from the Agent confirming the applicant's willingness to enter a unilateral undertaking for the provision of a contribution towards play space.

At the meeting, an oral presentation was made by the Council's Planning Development Manager (Clare David) in respect of the application.

Richard Perry, a local resident, spoke against the application.

Peter Le Grys, the applicant's agent, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Hones and RESOLVED that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to:-

a) Within six months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (where required):

- Open Space Provision

b) Planning conditions in accordance with those set out in below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate):-

Conditions:

1. Conditions: Standard time limit for development to commence
2. Details of external materials to be submitted
3. Details of Soft and Hard Landscaping
4. Planting season/replacement of planting within 5 years
5. Tree details to be submitted together with protection measures to be implemented during construction
6. Boundary Treatment details
7. Bin and cycle storage details
8. Details of access road
9. Visibility Splays
10. No unbound materials within 6m of highway boundary
11. Details of vehicular accesses
12. Size of vehicle hardstanding areas
13. Garage sizes
14. Details of turning facilities
15. Provision for cycle stores
16. Construction Methodology Statement
17. Surface water discharge to highway (prevention)

112. PLANNING APPLICATION – 15/00669/OUT - CROWN BUSINESS CENTRE AND GOLF DRIVING RANGE, OLD IPSWICH ROAD, ARDLEIGH CO7 7QR

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Development Manager (Clare David) in respect of the application.

Peter Le Grys, the applicant's agent, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor McWilliams, seconded by Councillor Everett and RESOLVED that the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development subject to planning conditions in accordance with those set out in below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate):

Conditions:

1. Time limit for commencement – within 2 years of approval of last reserved matter
2. Time limit for submission of reserved matters – within 2 years of this approval
3. Submission of reserved matters
4. Equivalent replacement employment floor space to be provided (as approved under

- 15/00985/OUT) prior to occupation of any of the hereby approved dwellings
- 5. Vehicular access reconstructed to a width of 5.5m for first 6m with dropped kerb
- 6. Details of communal refuse store adjacent to highway boundary
- 7. Construction Method Statement
- 8. Vehicular turning facility of at least size 3 dimensions

113. PLANNING APPLICATION – 15/01638/COUNOT - COUNCIL OFFICES, 14A WADDESDON ROAD, DOVERCOURT, CO12 3BA

The Committee was informed that this application had been referred to it as Tendring District Council was the landowner.

It was reported that the proposal was to change the use of a building from Use Class A2 (cash office) to Use Class D2 (fitness class and personal training studio) under the permitted development allowances, as set out in Schedule 2, Part 3, Class J of The Town and Country Planning (General Permitted Development) (England) Order 2015. The applicant was seeking the Council's determination as to whether its "prior approval" was required for the change of use from A2 use to D2 use subject to the restricted considerations detailed in the Officers' report.

Members were advised that the considerations were restricted solely to the impacts of noise; opening hours; transport and highways; and whether the change of use was undesirable in terms of impact on the adequate provision of that existing use and on the sustainability of the shopping area.

The Committee was advised that Officers had concluded that the proposal would be acceptable in terms of those specific impacts and therefore that the change of use from A2 (cash office) to D2 (fitness class and personal training studio) did not require Prior Approval.

At the meeting, an oral presentation was made by the Council's Planning Development Manager (Clare David), in respect of the application.

The Committee noted the receipt of this application.

114. PLANNING APPLICATION - 15/01138/FUL - IVY COTTAGE, CHAPEL LANE, ARDLEIGH CO7 7BJ

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of refusal.

At the meeting, an oral presentation was made by the Council's Planning Officer (ML) in respect of the application.

Mr Joseph Greenhow, agent acting on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Watson, seconded by Councillor Hughes and RESOLVED that, contrary to the Officers' recommendation of approval, the Head of Planning (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to planning conditions in accordance with those set out below (but with such amendments and additions, if any, to the detailed wording thereof as the Head of Planning, or the equivalent authorised officer, in their discretion considers appropriate):

Conditions:

1. Standard Time Limit
2. Development in accordance with the approved plans

115. PLANNING APPLICATION 15/01053/DETAIL - LAND AT THE SHELTONS, KIRBY CROSS CO13 0LX

Councillor Bucke, present in the public gallery, had earlier declared a non-pecuniary interest in relation to Planning Application 15/01053/DETAIL by virtue of the fact he was the local Ward Member.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval.

At the meeting, an oral presentation was made by the Council's Planning Officer (ML) in respect of the application.

Mr Peter LeGrys, agent acting on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Watson, seconded by Councillor Raby and RESOLVED that consideration of the application be DEFERRED in order to allow the Officers to hold discussions with the applicant and Essex County Council Highways and Transportation Department on the proposed point of access with a view to addressing concerns relating to headlights shining into the front room of No. 21 The Sheltons.

116. PLANNING APPLICATION - 15/01219/FUL - BURRS ROAD CEMETERY, BURRS ROAD, CLACTON-ON-SEA CO15 4LE

In view of the lateness of the hour, the Chairman informed the Committee that he was deferring consideration of this application until the next meeting of the Committee.

117. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

There were none.

118. SUB-COMMITTEES OF THE LICENSING AND REGULATORY COMMITTEES AND THEIR CHAIRMEN AND VICE-CHAIRMEN

To avoid the need for formal meetings of the Licensing and Regulatory Committees to be held to appoint their Sub-Committees and the Chairmen and Vice-Chairmen of those Sub-Committees:-

It was moved by Councillor Stock, duly seconded and:-

RESOLVED – (a) That the Appeals Sub-Committee be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor Aldis
 Councillor Bragg
 Councillor S A Honeywood
 Councillor Nicholls
 Councillor Platt
 Councillor Simons

(b) That Councillor S A Honeywood be elected Chairman of the Appeals Sub-Committee for the 2011/2012 Municipal Year.

(c) That Councillor Platt be appointed Vice-Chairman of the Appeals Sub-Committee for the 2011/2012 Municipal Year.

(d) That the Licensing (General Purposes) Sub-Committee be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor Casey
Councillor De-Vaux Balbirnie
Councillor Downing
Councillor Fawcett
Councillor V E Guglielmi
Councillor Powell
Councillor Pugh
Councillor Skeels

(e) That Councillor Downing be elected Chairman of the Licensing (General Purposes) Sub-Committee for the 2011/2012 Municipal Year.

(f) That Councillor Fawcett be appointed Vice-Chairman of the Licensing (General Purposes) Sub-Committee for the 2011/2012 Municipal Year.

(g) That Premises/Personal Licences Sub-Committee 'A' be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows, with the appointment of a third member from the Labour Group, which appointment to be dealt with by the Chief Executive in accordance with the authority delegated to him to appoint a member at the request of the Group Leader:-

Councillor Downing
Councillor Powell

(h) That Councillor Downing be elected Chairman of the Premises/Personal Licences Sub-Committee 'A' for the 2011/2012 Municipal Year.

(i) That Premises/Personal Licences Sub-Committee 'B' be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor V E Guglielmi
Councillor G L Mitchell
Councillor Shearing

(j) That Councillor V E Guglielmi be elected Chairman of the Premises/Personal Licences Sub-Committee 'B' for the 2011/2012 Municipal Year.

(k) That Premises/Personal Licences Sub-Committee 'C' be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor De Vaux-Balbirnie
Councillor Fawcett
Councillor Platt

(l) That Councillor Platt be elected Chairman of the Premises/Personal Licences Sub-Committee 'C' for the 2011/2012 Municipal Year.

119. TENDRING DISTRICT LOCAL PLAN PREFERRED OPTIONS CONSULTATION

Council's approval was sought in respect of the Tendring District Local Plan Preferred Options Consultation.

The Local Plan Committee had considered the consultation document at its meeting held on 9 June 2016 and Council had before it the Committee's recommendations.

Council also had before it a report of the Head of Planning Services which informed Members of major as well as minor changes to the consultation documents in order to make the Plan up-to-date prior to public consultation and to be consistent in not allocating sites for housing which had been refused permission. Some of those changes were a result of decisions made by the Planning Committee at its meeting held on 14 June 2016. The changes had been made to the Plan attached as Appendix A to the report of the Head of Planning Services and a schedule of those changes was provided in Appendix C thereto.

Members had had circulated to them prior to the commencement of the meeting amended maps in relation to Great Bentley and Frinton, Walton, Kirby-le-Soken, Kirby Cross and Great Holland. Those maps had been altered as a result of the recent refusal of related planning applications.

Councillor Stock, Chairman of the Local Plan Committee, thanked the Members of that Committee and the Officers, particularly the Head of Planning Services (Cath Bicknell) and the Planning & Regulation Manager (Simon Meecham), for their hard work and dedicated effort in getting the Local Plan to its current position. He also thanked the members of the public and representatives of parish councils who had participated in the public speaking scheme at meetings of the Local Plan Committee.

Councillors Stock, Turner, Scott, Winfield, Parsons, Stephenson, Calver, Bray, V E Guglielmi, Howard, G V Guglielmi, Coley, Broderick and M Brown participated in the debate.

It was moved by Councillor Stock, seconded by Councillor Turner and RESOLVED that Council:

(a) approves the content of the Tendring District Local Plan Preferred Options consultation document, attached as Appendix A to the Report of the Head of Planning Services, which incorporates the changes set out in Appendix C thereto and including the amended maps for Great Bentley and Frinton, Walton, Kirby-le-Soken, Kirby Cross and Great Holland, as circulated, for public consultation for a period of eight weeks;

(b) delegates authority to the Head of Planning Services, in consultation with the Chairman of the Local Plan Committee, to make minor amendments to the text of the Local Plan consultation documents up to the point of publication for consultation purposes. Such amendments are to be circulated to all Members of the Council prior to the commencement of the public consultation; and

(c) delegates authority to the Head of Planning Services, in consultation with the Chairman of the Local Plan Committee, to agree the content of the Sustainability Appraisals for the Local Plan Consultation Documents for public consultation for a period of six weeks. The content of the Sustainability Appraisals are to be circulated to all Members of the Council prior to the commencement of the public consultation.

NOTES: (1) in accordance with the provisions of Council Procedure Rule 18.5,

Councillors Bray, Broderick, Parsons and Whitmore each requested that they be recorded in the minutes as having voted against the above decisions; and

(2) in addition, Councillor G V Guglielmi requested that he be recorded in the minutes as having abstained from voting on the above decisions.

120. URGENT MATTERS FOR DEBATE

There were none on this occasion.

121. URGENT MATTERS FOR DEBATE

There were none on this occasion.

Chairman