

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 22ND SEPTEMBER, 2020 AT 6.00 PM**

Present:	Councillors White (Chairman), Alexander, Cawthron, Casey, Codling, Fowler, Harris and Placey
Also Present:	Robin Green (Barrister)
In Attendance:	Graham Nourse (Assistant Director, Planning), Trevor Faulkner (Planning Officer), Lisa Hastings (Head of Governance and Legal Services), Keith Durran (Democratic Services Officer), Emma Haward (Leadership Support Officer), Hattie Dawson-Dragisic (Corporate Services Apprentice).

43. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Bray (Vice-Chairman).

44. MINUTES OF THE LAST MEETING

It was noted on item A.1 Planning Application **19/00188/FUL - LOWER FARM EAST END GREEN, BRIGHTLINGSEA COLCHESTER CO7 0SX** that Councillor Cawthron voted against the application.

It was moved by Councillor Cawthron and seconded by Councillor Codling and **RESOLVED** that the minutes of the last meeting of the Committee held on Wednesday, 2 September 2020 be approved as a correct record.

45. DECLARATIONS OF INTEREST

Councillor White declared a personal interest in item **A.1 CARAVAN/CHALET SITES OCCUPANCY RESTRICTION** due to being the Ward Member. He was not pre-determined.

46. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

47. A.1 CARAVAN/CHALET SITES OCCUPANCY RESTRICTION

Councillor White declared a personal interest in item A.1 **CARAVAN/CHALET SITES OCCUPANCY RESTRICTION** due to being the Ward Member. He was not pre-determined.

Cabinet received a report on 13th December 2013, which outlined the outcome of an initial review of seasonal occupancy restrictions on holiday parks/homes across the

district. Cabinet supported an on-going review and made recommendations as to its progress.

Cabinet received an update at its meeting in June 2014 on each of its previous recommendations including

- liaison with the Environment Agency to understand flood risk issues on a site by site basis;
- working with the sites' owners and operators and individuals affected to improve emergency planning procedures;
- analysis of appeal decisions; and
- monitoring of compliance with conditions on sites in Tendring district.

Decisions relating to planning enforcement come within the terms of reference of the Planning Committee and subsequently, a further report was presented to the Committee on 2 February 2016 detailing the outcome of the review at that time. The Planning Committee resolved that it:

1. Notes the outcome of the review, including the monitoring of sites and the potential breaches of planning controls that have been identified;
2. Supports the principle of seeking voluntary compliance with planning controls relating to holiday caravan and chalet occupancy, and where this is not successful to serve Planning Enforcement Notices, giving priority to breaches at Point Clear Bay, Clear Springs and Bel Air; and
3. Receives an update report in relation to this enforcement action early in 2017.

In accordance with this decision, work has continued and this report provides updates on:

- Action taken to resolve breaches at Clear Springs, Point Clear Bay and Bel Air through voluntary compliance;
- Formal action taken at Clear Springs and Point Clear including the outcomes of appeals against enforcement notices.

And the report seeks agreement to:

- Undertake further monitoring of compliance at caravan and chalet sites.

An update sheet had been circulated to the Committee prior to the meeting with details of:

- (1) Report of the Assistant Director Planning - To update the Planning Committee on caravan and chalet sites occupancy including the result of planning and enforcement appeals as to planning breaches relating to occupancy conditions in Point Clear Bay and to secure support to progress further enforcement action.

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

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Placey and **RESOLVED**, that the report be agreed subject to the below recommendations:

Recommendations:

1. Notes the contents of this report, and the action taken to date;
2. Requires the Assistant Director Planning to formally write to each of the Appellants for Point Clear proceedings, as soon as possible to confirm the outcome of their appeal and where compliance with the Enforcement Notice is still required, the date by which this takes effect; and
3. Supports the carrying out of further planning enforcement investigations as necessary at other sites with other winter occupation restrictions in areas at high risk of flooding and where voluntary compliance cannot be achieved, taking formal action as necessary.

48. A.2 PLANNING APPLICATION - 20/00239/FUL - GROUND FLOOR, 1 LANSWOOD PARK, BROOMFIELD ROAD, ELMSTEAD, COLCHESTER

This application was referred to Planning Committee as it represented a departure from the adopted Tendring District Local Plan, proposing housing outside of any settlement development boundary in both the saved and emerging Local Plans.

This was a hybrid application which sought outline planning permission (access included with appearance, landscaping, layout and scale reserved for later consideration) for up to 10,000 square metres of employment floor space within use classes B1 (business), B2 (general industrial) and B8 (storage and distribution); and 14 houses. Full planning permission was sought for 71 houses.

The application was originally submitted for a total of 72 dwellings and was increased to a total of 85 dwellings in late July, the proposed employment floor space remains unchanged. This change was subject to reconsultation with necessary consultees and neighbours which has now expired. The number of dwellings was increased in order to provide the £430,000 to fund a 3G artificial grass pitch on Charity Field. The Supplementary Planning Document supporting saved Policy COM6 confirmed the open space contribution in this case amounted to £205,024.00. In addition to this, the applicant was offering an additional contribution of £224,976.00 which combined with the above open space contribution would provide the full cost of providing the 3G artificial grass pitch. This was a departure from saved Policy COM6 and was offered by the applicant in acknowledgement of the scale of the proposed development and its impact upon the Parish of Elmstead Market.

The proposal sought to use the 71 dwellings seeking full planning permission to “enable” the expansion of the existing Lanswood Business Park due to infrastructure servicing the site reaching capacity as acknowledged in the supporting text to Draft Policy SAE3 (Lanswood Park). The viability of the proposal had been independently assessed and confirmed that the proposal could not provide the £955,835.20 requested by Essex County Council Education or the 26 affordable dwellings. In terms of S106 contributions the applicant offered £430,000 to fund a 3G artificial grass pitch on Charity Field (£205,024 open space contribution and additional contribution of £224,976.00); the required RAMS contribution of £10,674.30 (£125.58 per dwelling); and £50,000 towards

the upgrade of the traffic signals and introduction of MOVA (movement sensor traffic light signals) for the A133 Clacton Road junction with Bromley Road.

The report confirmed that this was a sustainable location for development and the significant economic benefits of the proposal in providing up to 10,000 square metres of employment floor space, estimated to provide around 600 jobs, were considered to outweigh the modest landscape harm in this context of mixed residential and commercial development. The proposal did not provide the required contributions towards affordable housing or education on the grounds of viability and this was clearly a negative factor in terms of social sustainability and needed to be balanced against the significant economic benefits of the proposal. Officers were of the opinion that the economic benefits of the proposal, and the viability evidence provided, had overridden the absence of contributions towards education and affordable housing.

The proposal, subject to the recommended conditions, was also considered acceptable in terms of highway safety; residential amenity; ecology; heritage assets; archaeology; drainage; and detailed design, scale and layout.

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 had been circulated to the Committee prior to the meeting with details of:

(1) Hybrid planning application comprising Outline Application for up to 10,000sqm of new mixed use (B1, B2, B8) commercial space and 14 houses, and Full Permission for 71 houses. Existing access amended and new residential access to Clacton Road.

1 Lanswood Park Broomfield Road Elmstead

Application deferred to allow for statutory consultation with The Garden Trust given the listing by Historic England on 18 August 2020 of the adjacent Beth Chatto Gardens as a Grade II Listed 'Park and Garden' and as such the need to consider the setting of the gardens as part of the determination of this application. The reason for the listing is given as the gardens *"...being a particularly important and early example of an environmentally sustainable garden design, using plants adapted to, and in harmony with local conditions as the home of Beth Chatto OBE (1923-2018), the leading plantswoman of her age."*

Following discussion by the Committee, it was **RESOLVED** that, the item be deferred for the following reasons:

- (1) Application deferred to allow for statutory consultation with The Garden Trust given the listing by Historic England on 18 August 2020 of the adjacent Beth Chatto Gardens as a Grade II Listed 'Park and Garden' and as such the need to consider the setting of the gardens as part of the determination of this application.

49. A.3 PLANNING APPLICATION - 20/00480/DETAIL - LAND EAST OF BROMLEY ROAD, LAWFORD, CO11 2HS

Outline planning permission (all matters apart from access - reserved) was granted on 13th April 2017 for a mixed development of 360 houses and community facilities/open space on 22.76ha of land to the south of Lawford, under 15/00876/OUT. The current submission relates to phase 3 of the development, and is for the outstanding reserved matters.

In accordance with Members' request, the current submission was brought to Planning Committee seeking consent with regard to the reserved matters of landscaping, layout, appearance and scale.

The site lied outside the defined settlement boundary of the saved Local Plan but within the settlement boundary of the emerging Local Plan. The principle of residential development had been accepted by the granting of outline planning permission, which also established the position of the access.

The site – being the eastern third of the outline permission - was accessed from Long Road with 32 dwellings north of the estate road and 68 dwellings to the south. The scheme retained the substantial hedge to the eastern boundary and to the south adjacent to Dead Lane.

The detailed plans complied with the outline requirements, and the usual design parameters (garden sizes, distance between dwellings and level of parking) and the reserved matters were considered acceptable with no material harm to visual or residential amenity, or highway safety.

A legal agreement was required for this application to secure a financial contribution towards Essex Coast Recreational Disturbance and Avoidance and Mitigation Strategy (RAMS).

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 had been circulated to the Committee prior to the meeting with details of:

- (1) Reserved matters application with details of appearance, landscaping, layout and scale pursuant to Phase 3 of outline permission (15/00876/OUT) including 100 dwellings, associated hardstanding, boundary treatments, landscaping and drainage.**

Phase 3, Land east of Bromley Road Lawford

Report Update

- Para 6.7 - There has been a more recent planning application at the adjacent site known as the 'City and Country Site' (17/01181/OUT) for 485 units (not 300) this has been approved at appeal.

- Para 6.25 and 6.27. The “Grace” and “Amber” were both used in Phase 2 already. The “Ruben” (Flat over the garage) is the only new dwelling type. There are 2 five bedroom properties included in the overall total as stated in Para 6.16.
- Para 6.62 - The applicants Design and Access Statement (Ref 6.2) states the public open space is 10%. The applicant has updated the LPA with a figure of 10.9% being achieved on site.

Conditions Update

1) Consultees – Essex Wildlife Trust (Late Request)

The Trust has requested an additional condition in relation to provision of integral nesting habitat for Swifts and other bird species such as House Sparrows. EWT states *‘Swift conservation is of the utmost importance and integral nesting habitat is a relatively cheap and simple enhancement for developers to implement’*. Importantly, the agent has accepted the inclusion of the suggested planning condition.

- **Suggested Addition Planning Condition**

50 (number) swift bricks/boxes shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter.

Reason: To enhance the biodiversity of the site

- **Suggested Additional Informative**

Integral swift bricks are the preferred option on new housing developments. Nest boxes suitable for multiple species such as swift nest boxes will help more species (although birds of any kind are good for people’s health and wellbeing, budgets should be targeted at species that need help). Use data from mapping tools together with ecological survey work to assess likely impacts on swifts; implement effective mitigation by installing enough swift boxes in the correct location and position. Swift nest boxes should be fitted in clusters of 2 to 4 on gables and near the roofline where swifts would naturally look for a potential nest site. They should be installed at a minimum height of 5m above ground level. The aim should be to provide an equal number overall of nest sites and residential units (i.e. a residential development comprising 50 units should support an overall total of 50 swift nest bricks). Ensure swift bricks have a minimum of 5m clearance in front of them (i.e. no obstructions such as trees) and avoid locating them above doors and windows. ‘Tool-box’ training and on-site supervision is essential to ensure swift bricks are fitted correctly and in the right places. Further advice can be obtained from: Essex Swifts (john_smart3@btinternet.com), Swift Conservation, Action for Swifts or the RSPB, who are always available and happy to provide help. Check their respective websites and contact them for one-to-one advice on a project.

2) The applicant has asked the question on whether one the proposed conditions of this application could be removed. Namely, Reserve Matter condition 9 the ‘Construction Method Statement’. The reason is that this follows closely what has been requested in the original approved Outline 15/00876/OUT, condition 20 for a ‘Demolition and Construction Method Statement’

Officer response: proposed condition 9 of this application is similar to the outline planning condition 20. Therefore, it is accepted that condition 8 of the Reserve Matters approval could be removed.

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

Will Vote, the agent on behalf of the applicant, spoke in support of the application.

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Fowler and unanimously **RESOLVED:-**

that; the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to:

Conditions and Reasons:

1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

981s ph3 . I . 026 2020	Grace floor plans and front elevation	Received on	07 Apr
981s ph3 . I . 027 Apr 2020	Grace rear and side elevation		07
981s ph3 . I . 020 2020	Hebe floor plans and front elevation		07 Apr
981s ph3 . I . 021 2020	Hebe rear and side elevation		07 Apr
981s ph3 . I . 028 2020	Constance floor plans and front elevation		07 Apr
981s ph3 . I . 029 2020	Constance rear and side elevation		07 Apr
981s ph3 . I . 030 2020	Constance variation floor plans and front elevation		07 Apr
981s ph3 . I . 031	Constance variation rear and side elevation	07 Apr 2020	
981s ph3 . I . 038 2020	Rosemary floor plans and front elevation		07 Apr
981s ph3 . I . 039 2020	Rosemary rear and side elevation		07 Apr
981s ph3 . I . 040 (a) 2020	Amended rosemary side elevation		09 Sep
981s ph3 . I . 041 Apr 2020	Amelia floor plans and front elevation		07
981s ph3 . I . 042 Apr 2020	Amelia rear and side elevation		07
981s ph3 . I . 043	Alexander floor plans and front elevation		07 Apr 2020
981s ph3 . I . 044 (a) 2020	Amended alexander rear and side elevation		09 Sep
981s ph3 . I . 045	Anna floor plans and front elevation		07 Apr 2020
981s ph3 . I . 046 Apr 2020	Anna first floor plan and rear elevation		07
981s ph3 . I . 047 (a) Sep 2020	Amended anna side elevation		09

981s ph3 . I . 054	Charlotte floor plans and front elevation	07 Apr 2020
981s ph3 . I . 055 (a)	Amended charlotte rear and side elevation	09 Sep 2020
981s ph3 . I . 022 (a)	Amended the ruben floor plans and front elevation	09 Sep 2020
981s ph3 . I . 023 (a)	Amended the ruben side and rear elevation	09 Sep 2020
981s ph3 . I . 050 (a)	Amended the ophelia floor plans and front elevation	09 Sep 2020
981s ph3 . I . 053 (a)	Amended the ophelia (gabled) rear and side elevation	09 Sep 2020
981s ph3 . I . 061 (a)	Amended braithwaite rear and side elevation	09 Sep 2020
981s ph3 . I . 060	Braithwaite variation floor plans and front elevation	07 Apr 2020
981s ph3 . I . 057 (a)	Amended cadenza rear and side elevation	09 Sep 2020
981s ph3 . I . 056	Cadenza floor plans and front elevation	07 Apr 2020
981s ph3 . I . 036 (a)	Amended damask variation floor plans and front elevation	09 Sep 2020
981s ph3 . I . 037 (a)	Amended damask variation rear and side elevation	09 Sep 2020
981s ph3 . I . 051 (a)	Amended the ophelia side and rear elevation	09 Sep 2020
981s ph3 . I . 052 (a)	Amended the ophelia (gabled) floor plans and front elevation	09 Sep 2020
981s ph3 . I . 024	Amber floor plans and front elevation	07 Apr 2020
981s ph3 . I . 025	Amber rear and side elevation	07 Apr 2020
981s ph3 . I . 032	Barbier floor plans and front elevation	07 Apr 2020
981s ph3 . I . 033 (a)	Amended barbier rear and side elevation	09 Sep 2020
981s ph3 . I . 034	Damask floor plans and front elevation	07 Apr 2020
981s ph3 . I . 035 (a)	Amended damask rear and side elevation	09 Sep 2020
981s ph3 . I . 048	Victoria floor plans and front elevation	07 Apr 2020
981s ph3 . I . 049 (a)	Amended victoria side and rear elevation	10 Sep 2020
981s ph3 . I . 058	Berkeley floor plans and front elevation	07 Apr 2020
981s ph3 . I . 059 (a)	Amended berkeley rear and side elevation	09 Sep 2020
981s ph3 . I . 062 a	Outbuildings 1 floor plans and elevations	29 Apr 2020
981s ph3 . I . 063 a	Outbuildings 2 floor plans and elevations	29 Apr 2020
981s ph3 . I . 064	Outbuildings 3 floor plans and elevations	07 Apr 2020

981s ph3 . I . 065 Apr 2020	Sub station floor plans and elevations	07
981s ph3 . I . 006 Apr 2020	Hard landscaping plan	07
981s ph3 . I . 006 (b) 2020	Amended roads hard landscaping	11 Sep
19/163-01 b Sep 2020	Amended detailed hard and soft landscaping	11
19/163-02 b Sep 2020	Amended detailed hard and soft landscaping	11
19/163-03 b Sep 2020	Amended detailed hard and soft landscaping	11
19/163-04 b Sep 2020	Amended detailed hard and soft landscaping	11
19/163-05 b Sep 2020	Amended detailed hard and soft landscaping	11
19/163-06 b Sep 2020	Amended detailed hard and soft landscaping	11
981s ph3 . I . 008 (b) 2020	Amended private hard landscaping	09 Sep
981s ph3 . I . 009 (b) 2020	Amended private hard landscaping	09 Sep
981s ph3 . I . 004 (d) 2020	Amended house type key	11 Sep
981s ph3 . I . 005 (c) Sep 2020	Amended materials key	11
19/163 - sk01 a 11 Sep 2020	Amended phase 3 masterplan	

Reason - For the avoidance of doubt and in the interests of proper planning.

2. Prior to the occupation of any of the proposed development the internal road and footway layout shall be provided in principal and accord with Drawing Number:

- 981s ph3 . I . 004 d Proposed site layout / Amended house type key

Reason - To ensure that vehicles using the site access do so in a controlled manner, in the interests of highway safety and in accordance with Policy DM1.

3. Prior to the commencement of any above ground works, details of the estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety and in accordance with Policy DM 1 and 6.

4. The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities

shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and in accordance with Policy DM 1 and 8.

5. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres and each tandem vehicular parking space shall have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason - To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

6. All single garages should have a minimum internal measurement of 7m x 3m and all double garages should have a minimum internal measurement of 7m x 5.5m.

Reason - To encourage the use of garages for their intended purpose and to discourage on-street parking, in the interests of highway safety and in accordance with Policy DM8.

7. Prior to occupation of the development, those properties without an outbuilding or garage in Phase 3 of the hereby approved development shall be provided with Cycle parking in accordance with the EPOA Parking Standards. The details of the cycle parking arrangements proposed shall be submitted to and agreed in writing by the Local Planning Department before their first installation.

The approved facility shall be secure, convenient, covered and provided prior to first occupation and retained at all times.

Reason - To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

8. Prior to occupation of the proposed dwellings, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

Reason - In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

9. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Badger Survey Report (Geosphere Environmental Limited, November 2019), the Ecological Mitigation and Management Plan (Geosphere Environmental Limited, July 2019) and the Updated Ecological Survey (Geosphere Environmental Limited, June 2019) as already submitted with

the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

Reason - To conserve and enhance Protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

10. No development shall take place (including any demolition, ground works, site clearance) until a further badger survey and updated mitigation statement has been submitted to and approved in writing by the local planning authority. This further survey shall be undertaken to identify whether any Badger activity has changed since the previous surveys were undertaken and whether further mitigation and/or works are required for badgers during the construction phase. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason - To conserve Protected species and allow the LPA to discharge its duties under the Badger Protection Act 1992 and s17 Crime & Disorder Act 1998.

11. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior occupation of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason - To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) or the details provided within approved plans, 981s ph3 . I . 037 (a) Amended damask variation rear and side elevation, received on 09 Sep 2020. The proposed first floor rear W.C window and rear hallway window on plot 291 shall be glazed with obscure glass with a degree of obscurity equivalent to Pilkington level 5 and shall be permanently maintained thereafter as obscure glazed.

Reason - To safeguard the amenities of the adjoining premises from overlooking and loss of privacy.

13. 50 swift bricks/boxes shall be incorporated within the external walls of the development hereby approved and shall be retained thereafter.

Reason: To enhance the biodiversity of the site

50. A.4 PLANNING APPLICATION - 20/00473/OUT - LAND ADJACENT 25 DOVER ROAD, BRIGHTLINGSEA, CO7 0PS

This application is before Members as the application was made by Tendring District Council.

The application related to a parcel of land approximately 0.03 hectares in size located to the land adjacent to number 25 Dover Road, Brightlingsea.

The application sought outline planning permission with all matters reserved for the erection of 1 detached dwelling.

On the 18th January 2019 it was corporately agreed by the Portfolio Holder for Finance and Corporate Resources to initiate the process to dispose of the land and to explore the opportunity to develop the land asset for 1 dwelling in order to support local housing provision. This disposal was part of the Council's land rationalisation project.

The site lied within the Brightlingsea Settlement Development Boundary as defined within both the adopted Tendring District Local Plan 2007 and the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft 2017. As such the principle of siting 1 dwelling on this land was acceptable subject to the detailed considerations.

The site was not safeguarded open space within either the adopted or emerging Local Plans and was surrounded by existing housing; the site had limited visual amenity value being devoid of any soft landscaping; and the site had limited recreational value lacking any street furniture. The amenity and recreational value of the land was therefore limited and its re-development for 1 dwelling was not considered to result in any significant harm.

The plot size was considered sufficient to accommodate 1 dwelling in a manner which would not result in a cramped development providing sufficient private amenity space and parking for both dwellings, as demonstrated by the accompanying indicative layout plan. The proposed development would appear in keeping with the existing pattern of development and would not result in any significant harm to the character of the area.

The application was accompanied by a completed unilateral undertaking securing the financial contribution toward recreational disturbance in accordance with the Essex coast Recreational disturbance Avoidance and Mitigation Strategy and a financial contribution towards public open space.

Officers consider that sufficient space was available on site to provide a development that, through the submission of a reserved matters application, could achieve a development that would not detract from the character of the area or harm residential amenities. The application was therefore recommended for approval.

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 Acting Planning Manager (TF) in respect of the application.

Following discussion by the Committee, it was moved by Councillor Harris, seconded by Councillor Casey and unanimously **RESOLVED:-**

that; the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to:

Conditions and Reasons:

1. Application for the approval of Reserved Matters must be submitted before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. No development shall be commenced until plans and particulars of "the Reserved Matters" referred to in the above conditions relating to the Access, Appearance, Landscaping, Layout and Scale have been submitted to and agreed in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - The application as submitted does not provide sufficient particulars for consideration of these details.

4. Prior to the commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall provide for:

- safe access to/from the site;
- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during demolition and construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- details of hours of deliveries relating to the demolition and construction of the development;
- details of hours of site clearance or construction;
- a scheme to control noise and vibration during the demolition and construction phase, including details of any piling operations.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - In the interests of residential amenity and highway safety.

5. No above ground works shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the Local Planning Authority. The approved boundary treatment shall be implemented before the dwellings hereby permitted are occupied and retained in this approved form unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of providing adequate privacy for occupiers of the development and neighbouring residential properties and in the interests of visual amenity.

6. Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B, C and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to the dwelling or its roof, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/or building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of residential amenities.

7. All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site.

Reason - In the interests of sustainable development and to minimise the risk of surface water flooding.

8. The dwelling hereby permitted shall be single storey only.

Reason - In the interests of visual amenity having regard to the character of Dover Road and in order to minimise the visual impact of the development on the open countryside beyond.

Informatives:

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Legal Agreement Informative - Open Space/Play Space Contribution

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: Public Open Space financial contribution in accordance with Policy COM6 of the adopted Tendring District Local Plan (2007) and Policy HP5 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Highways Informatives

The indicative off street parking arrangement shown in Block Plan Drawing Numbered 1A shows a parking space constrained by structures, the width of this parking space, if confirmed in the FULL application, should be shown at no less than 3.4m in width to enable pedestrian circulatory space around a parked vehicle.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

The applicant/developer is advised to ensure that the public's right and ease of passage over the current footpath link to the northern boundary of the site is maintained free and unobstructed at all times. Furthermore, the applicant/developer is advised to work with Essex Highways to achieve enhancements to the current footpath link that adjoins the

northern boundary of the site, including a means of physical control e.g. bollards/kissing gate.

51. **EXEMPTION OF PRESS AND PUBLIC**

52. **LAND TO THE NORTH OF ST JOHNS ROAD CLACTON ON SEA PUBLIC INQUIRY - LEGAL ADVICE UPDATE**

This matter was brought before the Planning Committee, as an urgent item, in order to meet the Planning Appeal timetable relating to the current Public Inquiry pertaining to the refusal of application 18/01779/FUL - Land to the North of St Johns Road, Clacton on Sea (St Johns Road Nursery).

The reasons for bringing this item before the Committee were approved by the Planning Committee Chairman.

The Committee was asked to consider the following resolution:

“That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 10 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A, as amended, of the Act.”

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Codling and **RESOLVED** that the public be exempt from this item.

At the meeting, an oral presentation was made by the Council’s Assistant Director of Planning (GN) in respect of the application.

Robin Green, the Barrister associated with this case, participated in the meeting.

A summary of the legal advice was received providing the following recommendation in respect for each reason for refusal:

- i) The first reason for refusal, on grounds that the proposed development was out of character with its surroundings, it was considered defensible.
- ii) The second reason for refusal related to highway safety. It was considered that the Highways reasons would not be defensible unless the Council could specifically identify shortcomings in the applicant’s Transport Assessment or road safety audit. As noted from the original committee report, the findings and solutions set out within the reports were considered and supported by Essex County Council Highways.

Following submission of the appeal the Council appointed an external highways consultant to appraise these documents and the proposed highway arrangements. It

was their professional opinion that there was no positive evidence to show that the proposed access was unsafe or contrary to highway design standards, or that traffic from the appeal site, in conjunction with traffic from the Rouses Farm development, would have a significant impact on the highway network. Although additional evidence in relation to visibility splay length may be required in terms of evidence this had not been raised as an objection by the Highway Authority.

There was a 'possible' deficiency in the modelling of the interaction between traffic queuing on St Johns Road to gain access to Rouses Farm and the operation of the proposed access in to the appeal site. The Councils highway consultant however did not consider that based on the evidence supplied there was likely to be an issue.

In summary the legal advice suggests that the second refusal reason on highway grounds was not supported by evidence and the Council was at risk of costs should that reason be pursued

- iii) Refusal reason 3 related to the loss of privacy between existing residents fronting St Johns Road and the proposed development. As noted in the original committee report at paragraph 6.76, reference was made to the Essex Design Guide which notes that a minimum of 25 metres between the backs of houses may be acceptable. It continued stating that in the case of existing dwellings then they can expect a greater degree of privacy and new dwellings should not encroach any closer than 15 metres from the existing shared boundary. In this case all of the proposed dwellings were at least 15 metres from the boundary with many of the existing gardens enjoying garden depths in excess of 40 metres.

Counsel advised that in these circumstances they did not consider that the Council could reasonably assert that existing residents would suffer an unacceptable loss of privacy in their rear gardens. In fact Counsel state that the position in their opinion was unarguable and there was a risk of a costs award against the Council.

- iv) Reasons 4 and 5 specifically referred to the requirement for various matters to be secured by way of planning obligation under s106 of the Town and Country planning Act. Although these matters may have been secured as the appeal progresses the reasons for refusal are not unreasonable.

Given the above advice, that the Council was at risk of a costs award in relation to reasons for refusal 2 and 3, it was recommended that these reasons for refusal were not defended at the appeal and that the Appellant and Planning Inspector are informed of the Councils position.

Following discussion by the Committee, it was **RESOLVED** that; the report be agreed subject to the below recommendation:

Members agreed not to defend refusal reason 3 at the forthcoming Public Inquiry. Officers are instructed to work with the Councils external planning and highway consultants to further consider the defence of reason for refusal 2 (highway matters) and bring an updated report to a special meeting of the Committee for further discussion and consideration.

The meeting was declared closed at 10.40 pm

Chairman